

## International HR Forum event, 17 May 2016 Practicalities – helpful updates on a number of key areas

### TAX

- Ensure before you travel you know what your tax residency status is currently and what it will become
- Ensure you know how many days you are able to be in the UK in any given year before you become tax resident and how this might affect your home assignment patterns or trips to the UK.
- Ensure you know about whether you need to pay tax in the country you are heading to.

#### Helpful links:

Statutory residence test [www.gov.uk/government/publications/rdr3-statutory-residence-test-srt](http://www.gov.uk/government/publications/rdr3-statutory-residence-test-srt)

Tax on foreign income [www.gov.uk/tax-foreign-income/overview](http://www.gov.uk/tax-foreign-income/overview)

Expat tax [www.expertsforexpats.com/expat-tax/](http://www.expertsforexpats.com/expat-tax/)

### ACCESS TO NHS TREATMENT (IN ENGLAND) FOR MISSION PARTNERS

The *NHS (Charges to Overseas Visitors) Regulations 2015* came into force on 6 April 2015 and have implications for future access to free secondary NHS healthcare for mission partners (UK nationals) visiting England.

The new Regulations and the Guidance that goes with it are available online:

[www.legislation.gov.uk/ukxi/2015/238/introduction/made](http://www.legislation.gov.uk/ukxi/2015/238/introduction/made) and

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/496951/Overseas\\_visit\\_or\\_hospital\\_charging\\_accs.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496951/Overseas_visit_or_hospital_charging_accs.pdf). Missionaries and volunteers overseas are specifically mentioned on page 29 of the Guidance.

- Access to primary care services (e.g. GP services, dental practices, community pharmacists, walk-in centres, NHS 111, and high street optometrists) is unchanged and remains free - apart from the usual charges that apply to NHS patients, such as prescription charges and eye tests.
- Access to the Emergency Department (A&E) is free to all and will include tests and treatment while someone is still under the overall care of A&E.
- However, once care is handed over to another team such as transfer to inpatient (admission to hospital) or follow-up outpatient care, it becomes chargeable.
- Do note that there are certain diseases for which no charge is made for diagnosis or treatment.

What is absolutely clear is that the decision has now been made to continue the basis of the NHS as a residence based healthcare service. So, the key (and only) criteria as to whether or not mission partners working overseas will be entitled to access to secondary NHS care (when visiting England) without charge, is whether they can be deemed 'ordinarily resident' (OR) during their times in the UK. If they are considered OR they will be eligible for free secondary NHS healthcare from day one of their arrival. Please note that this is **not** related to residency status with any other issue (e.g. tax or education).

The longer a mission partner has been overseas, the harder it will be for them to be considered OR. And the more important it becomes for the mission agency/church to consider taking out insurance that includes private medical insurance whilst in the UK. For further detailed information and supporting documents, see [www.globalconnections.org.uk/interest-groups/international-hr-forum/access-to-nhs-treatment](http://www.globalconnections.org.uk/interest-groups/international-hr-forum/access-to-nhs-treatment).

## CROSS CULTURAL MARRIAGES: RESIDENCE AND VISAS

You need to consider together where you would like your long-term 'home' to be (e.g. where would you want to retire to?) and explore what needs to be done for you both to have residence status in that country. Consider also whether those plans would change if you have children, or if one of you, or a parent, has serious health issues, for example. How would you feel about not being able to live in the UK?

For some couples, the question they face is where they can live rather than where they want to live. You should do some research into how easy or not it might be for you as a UK citizen to get a visa or residence permit or work permit etc. in your future spouse's country. There may be restrictions on permission to work, even when you're married to someone from that country.

If your spouse is from a country in the European Economic Area (EU, Switzerland and Norway), then they have the right to live in the UK. However, it is becoming increasingly difficult for a non-EEA spouse to gain residence in the UK. UK visa requirements can be found here: <https://www.gov.uk/browse/visas-immigration/family-visas>. There are different requirements for visits (<https://www.gov.uk/standard-visitor-visa>) and coming to the UK to get married (<https://www.gov.uk/marriage-visa>). A visa to visit or to get married does not allow the non-resident partner to work.

Currently, there are only two options available for a non-EEA spouse who wishes to visit the UK:

1. As a tourist. The length of stay is usually limited to 6 months (depending on the nationality) and cannot be extended;
2. On the "route to settlement". This involves applying for a "family of a settled person visa", which lasts 2.5 years. This can then be renewed for another 2.5 years. After 5 continuous years of living in the UK (3 months per year maximum outside the UK permitted), the non-EEA spouse can apply for "Indefinite Leave to Remain (ILR)". After one more year, the non-EEA spouse can apply for UK citizenship.

Once a non-EEA spouse has gained ILR, they will be able to come and go from the UK without restriction. However, ILR may be revoked if the non-EEA spouse subsequently lives outside the UK for more than two years.

Financial requirements, and English language requirements must also be met.

The UK spouse must prove either that they have a certain level of income (currently £18,600 per year), or that they have sufficient cash savings to support the non-EEA spouse for the duration of their initial permitted stay in the UK (currently £62,500). If there are any children who do not have British passports, then the financial requirement increases from £18,600 to £22,400 for the first child and by a further £2,400 for each additional child.

The total financial cost of the route to settlement should not be underestimated. One Wycliffe couple who returned to the UK in 2013 estimate that they will have spent a total of over £6,000 (of which around £4,500 was for ILR) over six years on visas, health surcharges, biometric residence cards, etc., in order for the non-EEA partner to gain citizenship in the UK. The fees continue to increase year-on-year. In summary, the process is not quick, easy or cheap!

It may be worth seeing if the non-EEA spouse has entitlement to a passport from another (European) country, e.g., through ancestry, in order to make residence in the UK more possible.

In some cases the best option may be for you to consider living, whether temporarily or permanently, in a third country (i.e. a country that is home to neither spouse). We know of couples who have decided to live in the Republic of Ireland, and who hope over time to gain an Irish passport for the non-EEA spouse (and therefore the right of residence in the EEA).

## WORKER STATUS WHEN OVERSEAS INCLUDING NI AND PENSIONS, PLUS SAVINGS

**WORKER STATUS:** The network varies enormously in how it treats its staff. How NI, pension and how tax is paid also therefore varies.

- a) Employing staff overseas.
  - Not all employment law may apply in the same way as being employed in the UK, but best practice to follow it
  - Agency responsible for paying correct tax on earned income – but usually NT depending on days in the UK
  - Person responsible for paying correct tax on unearned income
  - National Insurance Class 1 for 52 weeks, then Class 3 voluntary or Class 2 VDW (if agency registered)
- b) People treated as self-employed via a Contract for Services:
  - Person responsible for paying correct tax, but same rules as if employed on earned income
  - Person responsible for paying correct tax on unearned income
  - National Insurance – Class 2 if meet certain criteria or Class 3 voluntary
- c) People treated as volunteers with funds channelled via Stewardship for example:
  - Person responsible for paying correct tax on what is considered income, either earned or unearned
  - National Insurance – Class 3 voluntary

You cannot pay Class 3 if you have not previously worked in the UK and paid NI for three years.

For more information visit <https://www.gov.uk/national-insurance-if-you-go-abroad>

Remember that paying NI contributions does not entitle a person to NHS treatment when they are back in the UK, but is part of the overall evidence in the “ordinarily resident” argument.

**PENSIONS:** There is new guidance about what can continue to be paid into an existing pension scheme when someone moves overseas <http://www.pensionsadvisoryservice.org.uk/about-pensions/when-things-change/moving-abroad>

Indeed it is possible to get tax relief on contributions when overseas in limited cases, but the person must have been a relevant UK individual for the tax year in question. This means:

- The person had relevant UK earnings chargeable to UK income tax during that tax year
- They were tax resident in the UK at some time during that tax year;
- They were tax resident in the UK at some time during the previous five tax years; and when you joined the pension scheme;

GC runs an off shore Retirement Fund with Zurich International which is tax effective and is the scheme used by many international companies. It does not come under Pension Law and is accessible at any time. Many agencies use it as a way of helping someone save in a tax efficient way for their retirement.

See <http://www.globalconnections.org.uk/services/member-benefits/pensions>

**SAVINGS:** When people live overseas, they can continue to have an ISA in the UK, but cannot open a new one or make contributions to an existing one. The onus is on the ISA investor to notify the provider of the account if their residence status changes. Unfortunately, any subscriptions made while living overseas will be void as the subscription is invalid. HMRC would insist that the money is moved to a non-ISA account and tax paid on the interest (though this can be claimed back via a R43).

It is strongly advised that people are encouraged to take independent financial advice or employ an accountant to help them.

## **NURSES, MIDWIVES AND DOCTORS – VALIDATION**

In April 2016 the Nursing and Midwifery Council (NMC) in the UK brought in new requirements for nurses and midwives maintaining their professional registration. Revalidation will have major implications for all nurses and midwives, and especially for those working in Christian organisations in the UK or in any setting overseas. However, completing the revalidation process is possible in the overseas context provided all the relevant criteria are met. It also makes it much easier for nurses and midwives returning to the UK to take up employment quickly.

Since December 2012, doctors working in the UK have to maintain a licence to practise through the process of revalidation. The licence to practise only applies to the UK and it should be possible to work overseas without maintaining a licence, as long as the registration requirements of the host country are met. The General Medical Council (GMC) advises doctors working wholly overseas to relinquish their licence to practise and restore it again upon return to work in UK. This is a good option for many doctors but it may cause problems for some. It will mean that they cannot work as a locum in UK during time home on leave.

See <http://www.globalconnections.org.uk/interest-groups/international-hr-forum/nurses-midwives-doctors-revalidation-process>

## **SAFEGUARDING**

As a sending organisation ensure you have a Safeguarding policy. Check out the GC guidelines for safeguarding of children and the CCPAS Safeguarding policy template. Links below

- [resources-for-members/codes-and-standards/safeguarding-children-guidelines](#)
- [www.ccpas.co.uk/provide/policies](http://www.ccpas.co.uk/provide/policies)

Ensure people on the field know how to raise issues internally and aware which department in the host country is responsible for safeguarding.

Parents of children may help their children take a positive attitude to the internet.

- [www.ccpas.co.uk/shop](http://www.ccpas.co.uk/shop)

## **DBS**

It is illegal to check on someone's criminal record if you don't have a right to do so.

To check you if you have the right and what level of check visit the DBS website:

[www.gov.uk/government/collections/dbs-eligibility-guidance](http://www.gov.uk/government/collections/dbs-eligibility-guidance)

Umbrella organisations exist who will manage your DBS on your behalf.

CCPAS (Churches Child protection Advisory Service) is an example: [www.ccpas.co.uk/disclosure](http://www.ccpas.co.uk/disclosure)

If a DBS is not possible there is an International Child Protection Certificate for UK nationals working abroad: [www.acro.police.uk/icpc/](http://www.acro.police.uk/icpc/)

If you have you have a person coming to work in the UK you can contact the foreign office for a list of embassy contacts to apply for a certificate/ statement of not known.

Also useful for further information and for other organisations who can manage DBS on your behalf:

[www.globalconnections.org.uk/forums/third-culture-kids-forum/dbs-checks](http://www.globalconnections.org.uk/forums/third-culture-kids-forum/dbs-checks)

## RENEWING / REPLACING DRIVING LICENCES

You have to have a place of abode in the UK to be able to replace or renew your licence.

There are many issues here:

- a) When moving abroad, there does not seem to be any special requirement to inform the DVLA about the change, though you have to if you move within the UK! This seems a grey area.
- b) It is officially illegal to seek to renew your licence or replace it when you are not resident in the UK (though all the advice applies to Great Britain - Northern Ireland seems to have slightly different advice)
- c) Residence means actual residence – not 'ordinarily resident'. You MUST have an address at which you are living. It is not possible to use an UK address for renewal which is not your residence.
- d) Some have driven overseas on a UK licence or International Licence for many years, and exceeded the clear limits. We would strongly advise against this and people should get a local licence wherever possible.
- e) In many countries you can drive on your UK licence only for a limited period. If you are living in another country, you need to apply for and obtain a local licence. Often this can be based on your British one without the need for a local test. There are specific laws for the EU where it is all much easier, but even here it is best to convert to a local licence.
- f) You can then use that country's licence to drive when visiting the UK. You do not need a photo-card UK licence until 12 months after arrival back in the UK. This applies both to UK residents and non-residents who are visiting. There are different rules depending on the countries of the licence. See <https://www.gov.uk/driving-nongb-licence>
- g) Renewing your licence can be done very easily online even if the photo-licence has expired. See <https://www.gov.uk/renew-driving-licence>
  - Our understanding is that if the date on your photo-card licence runs out and you cannot renew as you are overseas and not resident in the UK, it's not the right to the licence that expires, it is just the photo-card that expires.
  - It is illegal to use an expired photo-card licence to drive - with a £1,000 fine. DVLA ensures that licences are renewed every ten years to make sure that you have a current(ish) photo on the licence.
  - If you were to return to the UK after living abroad, and have at some point held a licence issued since 1976, you just need to fill out the renew the licence form - with appropriate new photo ID documents if you've changed your name.
  - It is helpful to keep a note of your driver ID number somewhere, as you have to put it on the forms.
  - Once you've sent off the application to renew, you can drive before you get your licence as long as you:
    - have held a Great Britain or Northern Ireland licence issued since 1 January 1976 or another exchangeable licence
    - are not disqualified from driving
    - haven't been refused a licence for medical reasons or for failing to comply with medical enquiries or wouldn't be refused a licence for medical reasons - if in doubt, check with your doctor