

PUBLICATION

Coronavirus: Impact on Moving People and Immigration

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As governments around the world react with increasing vigor to flatten coronavirus curves, employers must urgently re-evaluate travel plans and immigration maintenance.

While the absolute number of infections and deaths worldwide so far appears less than those imposed by other influenzas, government policymakers are anticipating the prospect of quickly spiraling real numbers of very sick people overwhelming medical capabilities with drastic scenarios they desperately want to avoid. This is leading governments to impose limitations on travel and services, especially internationally, that are unprecedented in modern times.

Travel Bans

Various countries have suddenly banned all entries from certain areas or from everywhere with limited exceptions that do not include people with visas or visa waivers. For instance, the U.S. has banned entry by anyone who within the last 14 days has been in China, Iran, and Europe (including the U.K. and Ireland), except for U.S. citizens and permanent residents and their immediate relatives, custodians, or charges. The practical scope of broader exceptions, for those declared at high levels not to be a threat to national security or health, is unknown. Determined and resourceful people may choose to travel to an unbanned country for 14 days en route to the U.S., but one cannot be sure that the interim location will not become subject to a new ban.

Canada has announced a ban on all but uninfected Canadian citizens and permanent residents and their immediate family members, with exceptions for workers fulfilling Canada's supply chain. Both countries are limiting international flights to a relatively small number of airports where closer inspection and quarantining can be implemented, at least initially in crowded conditions that seem to foster contagion. Increasingly, airlines are expected to screen people before boarding to reduce such scenarios.

Immigration Office Closures

Many countries are suddenly closing or drastically limiting services of consular offices so that visas cannot be obtained, particularly in China and Europe, but in other places as well.

Canada has closed all interviews and hearings for internal immigration adjudications. The U.S. has told people to call and reschedule interviews if they are infected or sick, but advocacy groups are pushing for more comprehensive closures.

Conundrum for Those with Expiring Status and Filings Needed

People facing expiration of their authorized stays within a country must consider whether to travel to return home or to seek visas for return. In the past people often have preferred U.S. consular adjudications for certain status to avoid the excessive processing times and skepticism of USCIS officers who adjudicate extensions within the U.S. For now, many are choosing to file for extension with USCIS to avoid travel. Although one can expect increasing delays in USCIS adjudication, and work authorization for most categories technically is extended for only 240 days pending adjudication, that timeframe may be enough to get through the crisis.

Visitors who entered the U.S. on travel waivers under ESTA registration do not have the legal option to seek extension of their 90-day stays except for "extraordinary circumstances" for up to 30 days. Especially given limited consequences of an overstay up to 180 days, some travelers may choose to risk technical violations to avoid immediate travel.

The U.S. Department of State has established a [helpful page of links to developing restrictions in countries across the world](#), apparently through informational contributions of U.S. consulates. With U.S. consulates increasingly closing, however, such information may become stale.

With so many U.S. employers moving to remote working arrangements, the mechanics of getting authorized representatives of the employers to sign sponsorship papers become trickier. Luckily USCIS only still requires "wet" signatures on hard paper for three important forms (I-129, I-539, and I-131), and the rest can be signed by a representative at home, scanned, and emailed to counsel for filing. Law firms resorting to remote work still will need to manage many paper filings.

Institutions and individuals should seek counsel about specific situations.

I-9 Processing for Hires

Hiring new staff in the U.S. requires completion of Form I-9, which includes the personal inspection by an employer representative of the workers' original documents of identity and work authorization and of the workers themselves to confirm they relate to each other. This is terribly challenging when everyone involved is remote. The law allows an employer to designate anyone to be the company representative completing this function, which could include even a hire's spouse or friend, but the employer is ultimately responsible and should carefully review a scan of the completed form.

H-1B Peculiarities

The U.S. H-1B program has its first annual electronic "lottery" for limited slots underway for three more days. USCIS has announced that it will not allow "premium processing" for the winners who then must file petitions, suggesting that USCIS expects strained adjudication resources but does not intend to delay this year's lottery. Perhaps USCIS will allow lottery winners more than the planned 90 days to file those petitions after notification.

A change of work location for H-1B workers in the U.S., including working from home, should be discussed with counsel.

Conclusion

The drastic measures of isolation and social distancing being imposed to avoid health calamities require thoughtful reaction by employers in relation to the movement of people. Where possible, no movement is best. Counsel is encouraged. Government relaxation of some rigid technical rules is hoped for.

If you have questions on planning for the impact of the COVID-19 pandemic on your immigration issues, please contact Robert Divine or any member of [Baker Donelson's Immigration Team](#). Also, please visit the [Coronavirus \(COVID-19\): What You Need to Know](#) information page on our website.