

Guidance note

Business immigration in the United Kingdom

At present, there are two main immigration systems which employers rely on to employ overseas nationals.



Nationals of a member state in the European Economic Area (“EEA”) or Switzerland and their family members currently benefit from rights of free movement to live and work in the UK. However, this position will change as a result of Brexit (see below).

Nationals from outside the EEA and Switzerland are subject to a points based system (PBS) to enter, work and/or study in the UK. There are five tiers of entry to the UK under the PBS:

Tier 1 – high value migrants

Tier 2 – highly skilled migrants

Tier 3 - low-skilled workers (this route is not currently operational)

Tier 4 – students

Tier 5 – youth mobility and temporary workers.

This briefing focuses on Tier 2 visas as this is the most common route to employ non-EEA nationals in the UK.

Non-EEA/Swiss nationals: Tier 2 visas

The Tier 2 category of the PBS is divided into four sub tiers. Most applications are submitted under:

Tier 2 (General) – this route is open to migrant workers who have been offered a skilled role by a UK

employer who has been unable to fill the role with a UK resident or an EEA worker. There is currently a cap of 20,700 migrants that can come to the UK under Tier 2 (General) each year, divided into monthly quotas. The role must be offered at a minimum salary level (currently £30,000 for experienced workers and £20,800 for new entrants, and in some cases significantly higher depending on the specific role) and the role must be sufficiently skilled (at or above degree

level – otherwise known as “RQF Level 6”). There are also English language requirements that must be met.

Tier 2 (Intra-Company Transfer) - this route is open to employers seeking to transfer an employee from an entity overseas to an entity in the UK that is directly linked by common ownership or control. As above, the role must be sufficiently skilled and must meet minimum salary requirements (currently £41,500 or above).



Tier 2 migrants must be sponsored by a UK employer and, in order to sponsor an employee, the employer must hold a sponsor licence, which involves an application to The Home Office. The application currently costs £1,476 for medium or large employers or £536 for small employers and it typically takes around 8 weeks for the Home Office to process the application.

Once an employer has obtained a sponsor licence, it must comply with a number of **sponsor duties** (see below).

Non-EEA/Swiss nationals: Other routes

There are a number of other immigration routes for non-EEA nationals outside the PBS including:

Visitor visa – individuals wishing to come to the UK for short periods not exceeding 6 months can apply for a visitor visa, which allows them to carry out a range of “permitted activities”. Importantly visitors cannot undertake paid employment.

Representative of overseas business visa - individuals can apply to come to the UK where they are the sole representative of an overseas business intending to set up a wholly owned subsidiary or register a UK branch for an overseas parent company.

Nationals from the EEA and Switzerland and their family members

Nationals from the EEA and Switzerland and close family members (both EEA and non-EEA nationals) currently benefit from rights of free movement to live and work in the UK.

Currently on 31 October 2019, the United Kingdom will leave the European Union. It is currently proposed that, if a “deal” is reached with the European Union, until 30 December 2020 EEA and Swiss nationals and their family members will continue to benefit from free movement rights, but they must apply under the so-called EU Settlement Scheme to remain in the UK after Brexit.

After 30 December 2020, all EEA and Swiss nationals will be subject to the same rules as non-EEA/Swiss nationals under the PBS, which would mean that they would be required to obtain a visa before entering the UK (except for tourist or other short-term visits) and they would need to be sponsored by an employer to work in the UK.

However, if no deal is reached with the European Union, it is currently proposed that freedom of movement will end on 31 October 2019. After 31 October 2019, EEA and Swiss nationals will be able to come to the UK for up to 3 months without a visa, but must then apply for limited leave to remain which will entitle them to stay in the UK up to 3 years. Any EEA or Swiss national wishing to stay beyond 3 years will need to apply for a visa under the PBS.

Compliance issues

Businesses employing migrants from outside of the UK need to bear in mind the following two key compliance issues.

Preventing illegal working

UK employers are required to prevent the employment of illegal workers by conducting a “right to work check” on all employees before the start of their employment. If an employer is found to have employed an illegal worker and has not conducted right to work checks, they risk a civil penalty of up to £20,000 and even criminal sanctions in certain circumstances.

Sponsor duties

Employers with a sponsor licence (see Tier 2 above) must comply with a number of duties as a condition of having their licence. These sponsor duties include: (a) reporting various matters to the Home Office within a prescribed time frame (such as absences or changes in the migrant’s or the employer’s circumstances); (b) record-keeping (including retaining copies of passports and contact details); and (c) compliance with the law (including ensuring that migrants are paid the national minimum wage). Failure to comply with sponsor duties can lead to penalties including revocation of the sponsor’s licence, which would mean that all migrants sponsored by the employer would have their leave curtailed to 60 days.

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