

14 July 2020

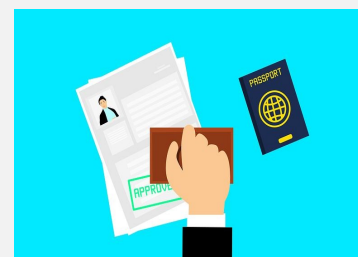
3CS Newsflash

BREXIT - NEW IMMIGRATION RULES FROM 1st JANUARY 2021

The Home Office have announced the outline for how the new Points Based System ("PBS") for immigration in the UK will look. This new system will take effect from 1st January 2021, the day after the UK ends its transition period for Brexit and finally leaves, in real terms, the EU.

Perhaps the biggest change to note is that, as anticipated, any new EU migrants entering the UK from 1st January onwards will need to comply with this new PBS. Indeed, the immigration system will be the same for all nationalities (other than the visitor system, for which there will still be a difference between "visa nationals" and "non-visa nationals").

The Home Office has published 60 pages of information on the new PBS, and so we set out here some of the key points that will be of most interest:



- Tier 2 (General) will no longer exist and will be replaced with a new (but very similar) route called simply the "Skilled Worker" route, which will still lead to settlement.
- The Skilled Worker route will require a Sponsor Licence - existing Tier 2 (General) Sponsors will automatically be granted an additional tier to cover this new route.
- There will be no cap on the number of migrants that can come to the UK under the Skilled Worker route, and therefore there will no longer be any requirement for Restricted Certificates of Sponsorship.
- The Resident Labour Market Test will be removed, meaning there will no longer be a need to prove that there were no settled worker applicants suitable for the role.
- The English language requirement will remain at level B1.
- The skill level required for sponsorship is reduced to RQF Level 3 (from the current Level 6) - this will open up such jobs as retail team leaders and supervisors, insurance underwriters, skilled chefs, sales administrators, various metal workers, builders, etc. But this does still not include roles including waiters/waitresses, retail assistants or HR administrators.
- There will be much wider scope to switch from another category from within the UK to this route, including from Youth Mobility or the new Graduate visas.
- There will be a new lower salary limit of £20,480 although there are significant restrictions to that, and so in many cases the salary threshold will remain as set out in the SOC codes as is the case now for Tier 2 (General).
- The ICT route will remain, although with the removal of the Resident Labour Market Test it would seem, at this stage and until further details are released, that there may be little benefit to using ICT other than the absence of an English language requirement.

In addition to the above, the Home Office reiterated that the new Graduate visa route is coming into effect in Summer 2021, allowing Tier 4 students to stay and work in the UK for 2 years after their degree finishes (3 years for PhD students). During that 2 years they will be able to work in any role at any skill level. At the end of that time they can apply to switch into the Skilled Worker route, if they meet the criteria.

Key take away points:

1. New EU migrants arriving from 1st January 2021 will need sponsorship under a Sponsor Licence;
2. Many more job types can be sponsored, now that the skill level is reduced to RQF 3;
3. It will be quicker to hire new migrants due to the removal of the Resident Labour Market Test and Restricted Certificate of Sponsorship requirements.

We expect more details later in the year. In the meantime, we are happy to assist clients in obtaining Tier 2 (General) Sponsor Licences now, in order to take advantage of the automatic conversion to the Skilled Worker Licence by the Home Office later. We recommend applying early, since we anticipate significant Licence applications will be made by the many companies who rely on EU workers and who will therefore soon need Sponsor Licences. Note also that this inevitable increase in Sponsor Licensing will likely mean the Home Office needing to take a stricter approach to enforcement of Sponsor duties and so Licence holders are advised to check their systems and records now and consider having a compliance audit carried out in preparation for the potential of an unannounced Home Office visit.

Please contact our team for more information.

Thomas Miles
Solicitor/Director/
Head of Legal
E: thomas.miles@3cslondon.com



This newsletter is designed to provide general information only. It does not constitute legal or other professional advice and thus should not be relied on. Definitive advice can only be given with full knowledge of all relevant facts. If you would like to discuss any aspect further, please contact us.

3CS Corporate Solicitors Limited is a Solicitors Practice, authorised and regulated by the Solicitors Regulation Authority, No: 597935.

The registered office of 3CS Corporate Solicitors Ltd is 35 New Broad Street, London EC2M 1NH. Mainline Tel: 0207 194 8140 Web: www.3cslondon.com

