

## Points Based Immigration – what does it mean for your business?

The points-based immigration system will come into effect on 1<sup>st</sup> January 2021. This will affect employees who work in the UK and will also have an impact on employers who employ staff from overseas.

The new rules are determined by The European Economic Area (EEA). This covers all the countries of the EU as well as Iceland, Norway and Liechtenstein. Switzerland is not part of the EEA, but Swiss nationals have similar rights to EEA nationals and Switzerland should be included for the purposes of checks and compliance.

### How can your business prepare for the 1<sup>st</sup> January 2021?

There are some steps you can take in readiness for the changes:

#### 1. Carry out a workforce audit

You should assess whether you already hold data on your employee's nationalities, or whether you need to undertake an audit of files to ascertain this.

If you undertake an audit, you should record:

- Name
- Nationality (including dual nationality)
- Work dept/location
- How long they have lived in the UK
- Whether they require pre settled or settled status
- Whether status has been obtained
- Their start date with the organisation
- Their contact details

If you do not have this information on file, you may want to ask all staff to bring their passports in, so you can obtain accurate data for the whole workforce. Whilst working remotely, you may want staff to send you their responses to the details required and verify passports on return.

It is important to communicate why you are completing this audit, and how the data will be processed so as not to cause concern amongst the staff. You may want to tie this in with the letter explaining to staff how they can apply, or you may wish to undertake the audit first and only send the letter to affected staff.

## 2. Check settled status of your employees

You should check if your current EU staff members have applied for pre-settled or settled status. Employees have until 31<sup>st</sup> December 2020 to obtain the status, and this will then allow them to continue to reside and work in the UK from 1<sup>st</sup> January 2021.

Any EU nationals who arrive in the UK prior to 11pm on 31<sup>st</sup> December 2020 can continue to live and work here until 30<sup>th</sup> June 2021 (as long as they have applied to the settlement scheme at that point). This may allow some flexibility for employers who are recruiting over this period.

Organisations can use the online checking service to confirm that a candidate has settled or pre-settled status and therefore has the right to work in the UK. However, up to 30 June 2021, candidates do not have to agree to share their status using the online checking service. They can provide their passport or national identity card as an alternative. Government guidance suggests that, up to 30 June 2021, an employer that insists on seeing evidence of settled or pre-settled status risks a complaint of race discrimination.

## 3. Check your sponsor status

If you will want to employ skilled migrants in the future, then you will need to 'sponsor' them need to apply for a Tier 2 sponsor licence. This will apply if you hire both EU and non-EU nationals from 1<sup>st</sup> January 2021.

## 4. Understand the points system

There is already a scheme in place, whereby points are awarded for factors such as salary, sponsorship and English language skills, which applies to workers from outside of the EU.

From 1<sup>st</sup> January 2021, in order to qualify for a visa and the right to work in the UK, anyone from outside the UK will have to gain at least 70 points. Points will be allocated throughout the process (i.e. for job offer from a sponsor, jobs at an appropriate level), as well as points being weighted according to the job which will take into account skills shortages and qualifications.

## 5. Consider your recruitment and staffing needs from next year onwards

Some sectors will be more affected by the new scheme than others, for example care home, hospitality and construction sectors statistically have a higher percentage of EU national employees.

Organisations who recruit from overseas will be likely to incur more costly recruitment processes than they currently do. The cost of sponsorship licences, recruitment and administration will all add significant burden to such organisations.

## 6. Self-employed and freelancers will also be affected

There is, as yet, little information about how self-employed and freelancers will be affected, apart from to confirm that there will be no different route for self-employed individuals. There is talk of there being an "unsponsored route" in due course, however this is not going to be in place for the 1<sup>st</sup> January 2021.

## 7. Consider business related travel

### UK business travellers to the EEA

Employers will be required to monitor activities of UK nationals travelling to the EEA for business purposes after the 1<sup>st</sup> January 2011. Individuals travelling without a visa must restrict their activities to business visitor rules in their respective destination country. These vary between countries, so it is essential to check specific rules for each country.

The amount of time UK business travellers spend in the EEA will be limited to 90 days in any 180-day period. There will also be a requirement to have at least six months' validity left on their passport before travelling.

### EEA business travellers to the UK

EEA nationals who enter the UK on or after 1 January 2021 for permissible business activities will not need a visa. Employers will need to ensure their activities are business related in the same way they currently do for American or Canadian nationals. For example, meetings and conferences are allowable, however for activities such as training there will need to be an assessment of whether this can be carried out in the home country. Consideration should also be given to the length of stay.

EEA business travellers entering the UK after the transition period will not be able to carry out productive work. If this is needed, visas will need to be obtained, or remote options considered to allow the work to be completed in the home country.

## 8. Plan ahead

There is still time now to carry out an audit of any staff who may need to apply for their pre-settled or settled status before the deadline.

You should also review your business activity in terms of overseas recruitment, overseas travel, and consider whether you need to apply for a Tier 2 sponsorship licence

Consideration should be given to how you will manage staff who do not apply for the necessary status ahead of the deadline, and how you will manage contracts going forward to make sure you carry out the necessary checks relating to right to work.