

# Impact of changes to immigration rules for UK employers

On 31 December 2020, the transition period for EU exit ended and a new points-based immigration system introduced. D Kadikar answers some key questions

## What is the impact on UK employers who sponsor and employ migrant workers?

If you are currently employing non-EEA migrants, your Sponsor License under Tier 2 and 5 will be automatically changed to allow you to sponsor Skilled Workers under the New Rules.

Under new immigration rules, you will not need to undertake Resident Labour Market Test, which will save up to eight weeks.

The other advantage is the removal of annual cap, which means you will not need to apply for Restricted CoS quota and wait for approval. The Skilled Worker Visa scheme will make it possible to hire someone at RQF level 3 / 4 and lower salary thresholds apply for new entrants to the UK labour market and for the occupations on Shortage Occupation List.

## Are you employing migrant workers under Tier 2 Intra Company Transfers (ICT)?

Under the new immigration rules, the employees under Tier 2 Intra Company Transfer will be eligible to switch to Skilled Worker Visa within the UK without any cooling off period. While this is very good news for the employees under Tier 2 ICT, as an employer, you may need to work out a strategy to retain those workers, else they may switch to another employer.

## Are you employing EU, EEA or Swiss Nationals?

The employers relying on EU migrant workers may feel major impact due to changes to the immigration rules. From 01 January 2021 the EEA nationals cannot come to the UK to work unless they have a Certificate of Sponsorship (CoS) assigned to them in the same way as a non-EEA skilled worker.

EEA skilled workers will need to score 70 points in the same way as a non-EEA citizen. To score the 70 qualifying points they will require a job offer from a registered sponsor



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(20 points), must meet the required skills level (20 points), must be able to prove knowledge of English (10 points) and will need to meet the minimum salary threshold of £25,600 or above (20 points), in most cases. These 70 points are made up of 50 Mandatory Points and 20 Tradeable Points. If possible, you should think of getting the EEA candidates in the UK before the deadline of 31 December so that they can apply under EU Settlement Scheme.

If you are a charity employing EU, EEA and Swiss nationals as volunteers, all new volunteers coming to the UK to work must meet the above conditions as Charity workers.

## UK employers should plan the CoS requirements

Employers must make the sponsor license applications and submit requests for CoS allocations in a timely manner so that visa applications are not unnecessarily delayed. Timely creating and assigning CoS will ensure that there is no break in the continuous stay of the employ-

ees forcing them to stop the work.

## UK employers must consider the in-country switching opportunities

Some visa categories allow the migrants to switch into Skilled Worker Route within the UK and if you wish to sponsor and employ such candidates, you should have sponsor license and CoS quota ready so that you can assign the CoS at short notice.

## Certifying the maintenance requirement by the employer

You should consider certifying the financial and maintenance requirements if you are an 'A' rated sponsor. If you do not certify maintenance, employees who do not have funds maintained as required, will have to delay visa applications.

## Timeline for UK employers

If you have to apply for a fresh sponsor licence application, it can take six to eight weeks to get the ap-

proval, which can be longer in some cases.

Current Coronavirus disruptions may delay the visa processing for the Skilled Worker who is applying from abroad under the skilled worker visa.

Keeping all these factors in mind the employer needs to finalise the job start date and job end date when requesting the CoS as these dates cannot be changed.

## Cost of employing a migrant skilled worker

Employing a migrant worker, including an EU or EEA national will involve expenses of the sponsor license application, fee for creating and assigning CoS and fee for immigration skills surcharge.

## Immigration compliance for UK companies employing migrant workers

If you are a sponsor of migrant workers, you will have responsibilities to monitor the expat workers. If you have not been registered as a Sponsor under Tier 2 and Tier 5 earlier and are registering as a new sponsor, you should factor in the time and expenses you will need to allocate for the compliance duties.

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