

Mobility: immigration alert

December 2018

United Kingdom

Government publishes white paper on future immigration system

Executive summary

The UK Government has published a white paper outlining key aspects of its proposed future immigration system due to be implemented from 2021.

Crucially, and as previously announced, the Government will end the free movement of EU citizens, instead focussing on skills and earning capacity when determining immigration criteria, with the same rules applying to both EU and non-EU citizens. Irish citizens will continue to be able to live and work freely in the UK without being subject to new immigration requirements.

The white paper also launches a twelve month period of extensive engagement during which the Government will seek views on the finer points of this immigration policy, including the question of whether the salary threshold to qualify for a skilled visa should be set at £30,000 or a lower figure. The Government intends to publish detailed immigration rules once the twelve month consultation period has ended.

Key features

The white paper adopts a core proposition of the Migration Advisory Committee's (MAC's) review published in September 2018, namely that once free movement has ended, newly arrived EU citizens should not receive preferential treatment over non-EU citizens. Instead, long-term employer sponsored visas will only be available for skilled roles, and temporary twelve month visas will be available to citizens of specified low-risk

countries filling roles at all skill levels. The white paper also comments on students and other categories of migration.

Visitors

Subject to reciprocal arrangements with the EU, the Government has proposed that EU citizens will not be required to apply for a visa to travel to the UK. The Government does however intend to introduce an Electronic Travel Authorisation (ETA) scheme similar to the ESTA scheme in place with the US and the ETIAS scheme due to be introduced by the EU in 2021. The ETA scheme would require visitors from non-visa national countries (expected to include EU member states), to register their travel before arriving in the UK. This should facilitate smoother entry at the UK border.

Skilled workers

This category will closely resemble the existing Tier 2 scheme and will be open to citizens of all countries. Key changes from the current Tier 2 system include:

- Removal of the annual limit ('the cap') of 20,700 Tier 2 (General) visas
- Removal of the requirement to conduct a Resident Labour Market Test
- Enabling visa applications to fill roles skilled to RQF 3 or above. The current requirement is that roles be skilled to RQF 6 or above. This would reintroduce the possibility of employers

sponsoring a wide range of medium skilled roles such as accounting technicians, procurement officers, hotel managers and IT engineers. Roles being filled by Intra-Company Transferees will still need to be skilled to RQF 6 or above

- Applicants from specified low risk countries will be able enter the UK to look for work and switch to a skilled worker visa from within the UK.

The Government is also considering a range of other policies as part of the year-long consultation process, including:

- Whether the salary threshold for experienced workers should remain at £30,000 or be lowered. The Government envisages that a lower salary threshold for graduates and those aged 25 and under (currently £20,800) would be retained
- Whether alternative remuneration policies can be brought within the immigration rules, including the practice of start-ups offering equity stakes in their business
- How the sponsorship system can be streamlined to support SMEs and frequent users of the system, including a possible 'tiered' approach for different sized sponsors
- Whether the composition of the Shortage Occupation List should be different for Wales and Northern Ireland. There is already a separate Shortage Occupation List for Scotland.

Temporary short-term workers

The white paper proposes that twelve month temporary visas will be available to citizens of specified low risk countries on a transitional basis, likely until at least 2025. Key characteristics of this scheme include:

- The visa will enable the holder to work for any employer, in any industry, at any skill level, although it anticipated that it will primarily be used for low skilled work
- Visas will be issued for twelve months and cannot be extended
- A twelve month 'cooling off' period will apply, in most cases requiring the holder to leave the UK for a year before applying for a new visa
- The Government intends to increase the cost of the visa incrementally each year to incentivise businesses to reduce their reliance on migrant labour.

The Government will consult on a range of factors relating to this scheme and will set out restrictions on nationalities, duration and possibly numbers in due course. The MAC will be tasked with monitoring use of the scheme and recommending changes on an ongoing basis.

Other proposals

The Government has also made a range of proposals that would streamline the visa application process and reduce the administrative burden associated with applying for and maintaining a visa for both employers and applicants. These include:

- The introduction of a digital immigration status which can be used throughout an individual's journey through the UK's immigration system, including entry to the UK, demonstrating right to work and access to services. This will end a reliance on physical status documents such as visa vignettes and Biometric Residence Permits
- Better use of data already held by other Government departments including HMRC, to reduce the need for applicants to repeatedly submit the same information
- Adopting the design and values of the EU settlement scheme, which have been generally well received, in developing the UK's new immigration system from 2021.

Next steps

Employers may wish to consider how the proposals will impact their ability to fill roles with, EU or non-EU citizens in the future, taking into account skill levels, salary thresholds and staff turnover. We would also encourage employers to contribute their views to the ongoing consultation launched by the publication of the white paper.

The white paper is silent on the possibility of an earlier implementation of new immigration rules in the event of a no-deal Brexit and the absence of a 21 month transition period, so employers should continue to observe political developments in the first few weeks of 2019.

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