

The new point-based system: a complex and costly system in need of simplification

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For employers of EEA nationals, the new point-based immigration system replaced free movement on 1 January 2021.

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What are the practical and financial challenges faced by UK based employers of EEA nationals since the implementation of the new point based system ?

Immigration route requirements

The new Skilled Worker route (SW) and Intra Company Transfer route (ICT) require employers to sponsor EEA employees through a sponsor licence and assign any new employee a Certificate of Sponsorship before they can apply for their visa.

The SW route requires applicants to have a job offer with a salary of at least £25,600 (£41,500 for the ICT route) or the going rate for the occupation, the required skills (RQF3 to RQF6) and level of English (B1).

Time

The whole process, including the sponsorship application (and the necessary preparation time), the Certificate of Sponsorship and visa applications, can take up to 3/4 months.

Cost

The cost of sponsorship can be prohibitive and weigh adversely on the decision to develop or set up a business in the UK. A visa fee, an English language exam fee, the Immigration Healthcare Surcharge (IHS), the Immigration Skills Charge (ISC), as well as the costs of a Certificate of Sponsorship, and a Sponsor Licence can amount to thousands of pounds in direct and indirect costs.

Administrative burden

Small and medium size employers may not have the inhouse capacity or knowledge to understand and navigate complex guidance and monitor the process effectively.

Absence of low skilled routes

The inflexibility of the system in relation to visa options for low skills employees risks causing damage to sectors like hospitality and retail that need time to adjust due to the pandemic and other factors.

English requirement

The requirement for proficiency in English constitutes a significant barrier to the mobility of highly experienced employees, especially in some leading-edge sectors, which require experienced technicians not always eligible to the SW route.

Absence of provision for short-term temporary workers

The SW route is designed for long term work in the UK. The ICT route is designed for medium term assignments of senior staff. There is currently no adequate provision in the Immigration Rules for skilled individuals to undertake skilled work on a short-term basis.

Many businesses, especially in the industrial sector need agility to deploy short term workers to meet competitive tenders opportunities.

Establishing a UK business

The process of establishing a UK entity which is compliant with the requirements of an application for a Sponsorship Licence is cumbersome. An employer will need to set up a UK bank account (a process which can take several months), be registered with HMRC (VAT and PAYE) and have compliant HR processes in place. The time and investment required to meet the requirements often lead to missed business opportunities and serious relocation delays.

Overall EU businesses with a commercial presence in the UK have struggled to adapt to the point-based immigration system. The system is in need of simplification. A global mobility route to be launched in April 2022 is due to provide more flexibility, we shall see. Businesses will need to take early advice to adapt and understand if they are to benefit from the new route.

Contact



Mark Hickson
Head of Business Development

onlineteaminbox@brownejacobson.com

+44 (0)370 270 6000

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