

# Employing Overseas Workers at Newman University

Newman University values workers from overseas and the knowledge and skills they can contribute to creativity, innovation and productivity within the institution. This may include performing jobs which require specialist skills that are not available in the UK, or vacancies for jobs which the government agrees are in designated 'shortage occupations'. The University recognises their responsibility in recruiting migrant workers, carrying out the necessary checks and making sure the law is followed.

## The Legal Framework

### **Those entitled to work in the UK**

Newman University recognises that all overseas nationals must comply with the entry requirements of the various immigration Acts and Regulations. Currently, there are several broad categories of overseas nationals in terms of their freedom to enter and work in the UK:

- Those who are free to enter, remain and work in the UK with minimal restriction on their length of stay or ability to change employment. These include nationals of the 'old' European Economic Area (EEA) countries, nationals of the Accession 8 or 'A8' countries who joined the EU in May 2004 (whose restrictions on the right to work in any EU Member State were lifted from May 2011), nationals of Bulgaria or Romania (the 'A2' countries who joined the EU in 2007 and whose restrictions to work in any EU Member State were lifted from January 2014), Swiss nationals, and nationals of other countries who have been granted indefinite leave to remain.
- Those with greater, but still limited, restrictions on their ability to enter and work in the UK, including Commonwealth nationals with UK ancestry and dependants of British citizens and EEA nationals.
- Those admitted to the UK with temporary permission as students or participants in short-term employment including exchange schemes, or for training or work experience.
- Those admitted to work in the UK in certain sectors on a 'permit free' basis, but still requiring specific and time-limited permission.
- Those requiring full employment-based permission to work in the UK.

### **The points-based system**

A points-based system has been in place since 2008 to assess non-UK nationals from outside the EEA that want to come to work in the UK. The criteria are adjusted from

time to time, so it's essential that individuals check the latest information. The institution is committed to implementing up to date procedures.

There are five tiers:

- Tier 1 - Highly-skilled individuals, entrepreneurs and high net-worth individuals (not requiring a sponsor)
- Tier 2 - Skilled workers with a job offer
- Tier 3 - Low skilled workers for temporary labour shortages (although this Tier has never been used because of the strong labour supply from EEA countries)
- Tier 4 - Students
- Tier 5 - Youth mobility and temporary workers: people allowed to work in the UK for a limited period of time to satisfy primarily non-economic objectives.

Migrant workers are required to score a certain number of points to obtain permission to enter, or remain, in the UK and the points criteria differ for each tier. Since the launch of the new system, significant changes have been made to the management and points table of Tiers 1 and 2.

Sponsorship by an employer is essential for Tiers 2-5.

Only employers registered with and licensed by the Home Office are permitted to issue a Certificate of Sponsorship (CoS) to a named individual, who must then apply for permission to enter the UK. The employer must have undertaken a strict verification exercise in order to issue a CoS.

### **Employers' responsibilities for avoiding illegal employment**

The University is aware that it's a criminal offence to knowingly employ a person who requires but lacks immigration permission, to be in that role. There is a maximum prison sentence of two years and an unlimited fine for employers caught in breach.

Newman University will check and copy specific original documentation for any new employees. Government guidance sets out when checks must be made, what employers need to do including tips on how to check authenticity and what to photocopy and retain. Checks must be completed before employment begins, but re-checking is also required for employees with time-limited immigration status.

Any checks that are made should be done in a non-discriminatory manner in accordance with government guidance which recommends that all job applicants should be treated in the same way.

### **The UK's decision to leave the European Union**

The UK is due to leave the EU on 31 October 2019 (although this date may be delayed).

The Government has set up the settlement scheme for EEA and Swiss nationals to apply for "settled" or "pre-settled" status in the UK as a consequence of Brexit. The settlement scheme is based on the UK Government's previous agreement with the EU on citizens' rights detailed in the withdrawal deal, which has not been approved by the UK Parliament. However, the scheme has been incorporated into UK immigration rules.

The Government has published guidance on the scheme: Apply to the EU settlement scheme (settled and pre-settled status). Under the scheme, EEA and Swiss citizens (and family members of EEA and Swiss citizens) who have been continuously and lawfully living in the UK for five years by 31 December 2020 (the end of the Brexit transition period in the event of a deal), can apply for settled status to be able to live and work in the UK indefinitely. EEA and Swiss citizens who arrive in the UK by 31 December 2020 but who will not have been continuously and lawfully living in the UK for five years by this date, will be eligible for pre-settled status, enabling them to stay (and work) in the UK and meet the five-year threshold. They will then be able to apply for settled status. EEA and Swiss citizens who have already obtained a permanent residence document will be able to swap this for settled status. The deadline for EEA and Swiss citizens (and eligible family members) who are resident in the UK by 31 December 2020 to apply under the scheme is 30 June 2021 (provided that the UK leaves the EU with a withdrawal agreement (but see below)).

The Government's guidance on the settlement scheme also sets out the position in the event of no withdrawal agreement being reached. Only those EEA and Swiss citizens and their family members who are resident in the UK by the date on which the UK leaves the EU, will be eligible to apply for settled or pre-settled status. Further, they will have to apply by 31 December 2020 rather than 30 June 2021. The Home Office confirmed on 19 August 2019 that the position remains the same under the new Prime Minister, ie the "scheme covers all EU citizens and their families living in the UK by 31 October, and EU citizens have until at least 31 December 2020 to apply".

### **Useful Contacts**

Resources are available on-line at the following:

Apply to the EU Settlement Scheme: <https://www.gov.uk/settled-status-eu-citizens-families>

Tier 2 Visas: <https://www.gov.uk/tier-2-general>

Immigration Rules and statement of changes: <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

Check if a document allows someone to work in the UK: <https://www.gov.uk/legal-right-work-uk>

Illegal Working Penalties:

<https://www.gov.uk/government/collections/employers-illegal-working-penalties>