



Points Based System – Sponsorship

10th December 2007

In November 2007, the Border and Immigration Agency (BIA) issued a Statement of Intent concerning sponsorship under the Points Based System. That system is to be rolled out over the next couple of years, starting in early 2008.

Under the Points Based System, most economic migrants to the UK from outside of the European Economic Area (EEA) will need to be sponsored in order to come to the UK.

Statement of Intent on sponsorship

The Statement of Intent provides details of the sponsorship scheme the UK is to introduce next year. It has been issued so that people and organizations can prepare for the scheme and make comments on the scheme. However, although comments are invited, there is no formal consultation.

The statement is available at:

<http://www.ind.homeoffice.gov.uk/6353/aboutus/sponsorshippointsbasedsystem.pdf>

For further information on how to make comments on the scheme, see page 37 of the statement.

The BIA has also issued a Statement of Intent about how tier 1 (concerning 'highly skilled' migrants) of the Points Based System is to work. That statement is not discussed here; but it is available at:

<http://www.ind.homeoffice.gov.uk/6353/aboutus/tier1statementofintent.pdf>

Migrants needing sponsorship

When the Points Based System is fully rolled out, economic migrants (that is students and workers) will need to be sponsored in order to come to the UK.

There are two exceptions. EEA nationals will not need to be sponsored. Other foreign nationals seeking to enter the UK under tier 1 of the Points Based System will also not need to be sponsored. Tier 1 is for migrants who are highly skilled (this group will include investors and entrepreneurs with substantial funds, and others depending on factors such as their qualifications, earnings and age).

Sponsorship and licences

Sponsorship will be provided by employers and educational establishments. Before making an application to come to the UK, an economic migrant will need to obtain the sponsorship of the employer he or she wishes to work for or establishment at which he or she wishes to study.

Employers and educational establishments will need to apply for a licence to be able to sponsor migrants. There will be a fee. The fee may be greater than the administrative cost to the BIA in handling the application; and reflect the benefit the BIA considers there to be in having the licence.

ILPA information service

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Information sheets provide general information only.

ILPA members listed in the directory at www.ilpa.org.uk provide legal advice on individual cases. ILPA does not.

Before issuing a licence, the BIA will consider whether the employer's or establishment's history, or the history of the managers or others in control, suggests any reason to think they may be unable or unwilling to meet the obligations of holding a licence (see below – sponsors' obligations).

There will be two ratings for licence-holders: A-rating and B-rating. Those with a B-rating will in effect be on warning that they need to improve their practice so as to demonstrate they can meet their obligations. If, over a specified period of time, they have not improved so as to gain an A-rating, they will be in danger of losing their licences altogether.

A licence will entitle an employer or educational establishment to apply for certificates of sponsorship. The employer or establishment may then allocate those certificates it is granted to migrants it is willing to employ or offer a course of study. The migrant will need a certificate in order to be able to apply to come to the UK so as to work for the particular employer or study at the particular establishment.

Sponsors' obligations

Sponsors will be required to keep specified records that can be made available to the BIA on request. They will also be required to report to the BIA if a migrant fails to turn up for work or studies. Other matters that must be reported to the BIA include any significant changes in the migrant's work or studies (including any substantial changes to the contract of employment, or pay; and any change to the duration of the course of study). Sponsors will also be required to report any suspicions they may have that the migrant is breaching any immigration conditions.

If a sponsor fails to meet these obligations, the sponsor may lose its licence; or may have its rating reduced to a B-rating.

Employers found to be employing illegal workers may also be subjected to a civil penalty (a fine) or criminal prosecution. For further information, see information sheet on "Illegal Working".