

# Shortage occupancy list applicable to non-EEA workers has now been released

February 2009

As readers of the Autumn edition of In Focus will know the government has introduced a new points based system (PBS) to replace the existing work permit system. This means that with effect from November 2008 employers will have to hold a sponsorship licence if they want to recruit non-EEA nationals to work in the UK under the following tiers:

- Tier 2 (skilled workers), and
- Tier 5 (youth mobility and temporary workers)

(Tier 1 (highly skilled workers) has already been implemented in full).

Under tier 2 there are a further five categories of worker: (1) general skilled workers; (2) intra-company transfers; (3) shortage occupations; (4) ministers of religion and (5) sports people. In order to determine what is a shortage occupation the government set up the Migration Advisory Committee (MAC) whose remit was to produce a list of shortage occupations. That list has now been produced and can be found at:

<http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/macfirstshortagelist/>

There is a separate list for Scotland.

MAC consulted widely in compiling the list and in deciding what was a shortage occupation it made an assessment based on three criteria: is the job or occupation sufficiently skilled, is there a shortage of labour within each skilled occupation and is it sensible to fill that shortage with immigrants from outside the EEA. MAC will review some of the occupations in the list in six months time.

That list is relatively short and the roles listed are quite specific. This will impact adversely on some industries who rely heavily on non-EEA workforces, for example care homes, catering and agriculture. In respect of the latter, it is not known whether the seasonal agricultural workers scheme will continue after the full implementation of the points based system or not. MAC is also consulting on whether the current restrictions on employment for Romanian and Bulgarian nationals should be removed at the end of 2008. Hopefully further clarification will be provided by the UK Border Agency by the end of the year.

If not listed as a shortage occupation an employer will have to find other ways of recruiting non-EEA nationals to fill job vacancies and/or re-consider its recruitment practices. Given the current economic situation filling vacancies with UK and other EEA nationals may become easier for some employers but that may still involve additional expense for employers at what is already a difficult financial time.

The government is yet to announce whether it accepts MAC's recommendations. However, that decision will have to be taken in the near future as the shortage occupation list is due to go live at the same time as tier 2 in November 2008. We will provide you with news of that in due course.

Many of you will also have seen the recent UK Border Agency's adverts on television regarding sponsorship. As an employer if you are thinking of becoming a sponsor the message is clear, unless the employer's application is made by 1 October 2008 then you may not be granted a sponsor's licence by November 2008. Our advice to employers is that if they do want to make an application that they must do so now. The business immigration team at Burges Salmon can help with that application and can audit an employer's HR processes to ensure that employers can comply with the requisite obligations as a sponsor.

## Should you require further help please contact:



**Roger Bull**  
Partner

+44 (0) 117 902 2701

roger.bull  
@burges-salmon.com



**Huw Cooke**  
Associate

+44 (0) 117 902 7719

huw.cooke  
@burges-salmon.com

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