

# COUNTRY BRIEF

# Immigration Alert

October 1, 2008

## **NEW UK POINTS-BASED SYSTEM (PBS)**

### **Effective November 1, 2008**

As a reminder, the Work Permits system is coming to a close and will be replaced with the new UK Points-Based System (PBS) effective November 1, 2008. If you intend to employ migrants who are non-nationals of the European Economic area (EEA) from late 2008, it is necessary to apply to the Border & Immigration Agency for a Points Based Sponsorship license immediately.

### **Recap:**

As most are aware, the PBS's intention is two-fold:

- 1) To assist UK businesses in recruiting the skills necessary from abroad; and,
- 2) To provide assurance to the UK public that only the skilled migrants will be able to enter the UK after passing a points-based evaluation.

### **Two Major Differences with the Existing System:**

#### **One**

Whereas under the existing system, the Home Office issued the work permits, the new PBS system has the employer (sponsor) now issuing the Work Permits (Certificate of Sponsorships). This involves greater scrutiny by the Home Office than ever before since 1971 and means that on-site visits by Officers will be part of the process.

UK businesses will now possess an increased responsibility and accountability in ensuring that as sponsors they comply with the requirements: If the UK Border and Immigration Agency believes a sponsor does not have the relevant processes and procedures in place to ensure absolute UK Immigration Compliance, their sponsorship license will be revoked.

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## **Two**

The Entry Clearance Visa process is now entirely points-based. This means that in contrast to the existing system where the approval of the Work Permit was the cornerstone of the issuance of the Visa, now the Visa is approved-based on a far more complex list of criteria, of which having a Work Permit or Certificate of Sponsorship is only one of many attributes that are required in order to obtain the required score of 75 points or more.

### **Begin Gathering Data Internally:**

It is imperative that HR evaluate carefully their intake policies for on-boarding and off-boarding employees, determine whether or not there are different payroll systems, separate HR records and functions, and in general put in place all processes necessary to confirm an employee's right to work. This should be done now prior to choosing a Level 1 User.

### **Processing Time:**

The current processing time for a Sponsorship License is approximately four to six weeks. However, processing times may increase closer to the "go-live" date for PBS Tiers 2 and 5. Therefore, prospective sponsoring companies should take heed to the above-noted action items at once.

If a company's application for a Sponsorship License is pending as of the "go live" date, the company will not be able to sponsor non-EEA nationals for work authorization under PBS Tiers 2 and 5 until the application is adjudicated and a Sponsorship License is issued. Employers without Sponsorship Licenses as of the "go-live" date will not be able to file work authorization applications under legacy schemes.

### **Action Items:**

- 1) Decide which UK based entities will file for PBS;
- 2) Ensure HR processes are effective in gathering documentation; and,
- 3) Confirm appointment with PLG in the next two weeks to get filing underway.

Thank you for affording us the opportunity to assist you with this critical and complex piece of the immigration process.

We trust that you find this Alert useful in the planning of your global immigration moves.

Rhonda Zimmer  
Communications Specialist  
Pro-Link Global Group Limited  
+1 623 670 7576 Direct  
+1 480 247 4287 Fax  
+1 941 704 3781 Mobile  
rhonda.zimmer@pro-linkglobal.com  
www.pro-linkglobal.com