

A photograph of three business professionals (two men and one woman) sitting around a table in a modern office or cafe at night. They are looking at laptops and talking. The background shows a city view through large windows. The scene is dimly lit, with light from the laptops and city lights outside.

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Business Immigration

25th October 2022

An overview of the point based system

Agenda

- Becoming a Sponsor
- Allocation of a Certificate of Sponsorship
- Different Types of Visa Routes
- Sponsor Duties
- Civil and Criminal Penalties

Becoming a Sponsor

The Sponsor Licence

- Since 1 January 2021, an organisation that wishes to employ a person who does not have the right to work for the employer in the UK, will need to be authorised by the Home Office to sponsor them to work
- This authorisation is known as a "sponsor licence"
- Employers that hold a sponsor licence are known as "sponsors"

Eligibility Requirements for a Sponsor Licence

- Operating or trading in the UK
- Genuine
- Pledging to accept all duties of a sponsor licence holder

Suitability and Genuineness

Genuine vacancy

Able to comply with sponsor duties and responsibilities

Honest, dependable and reliable

Not a threat to immigration control

Appropriate planning permissions/consents

Genuine need for a foreign national?



Applying for a Sponsor Licence



COMPLETE THE ONLINE
APPLICATION FORM



SUBMIT SUPPORTING
DOCUMENTS



PAY THE APPLICATION
FEE

Checks

- Applicants may be subject (amongst other checks):
 - On-site inspections or
 - Digital compliance inspections by compliance officers



Allocation of a Certificate of Sponsorship

What are Certificates of Sponsorship?

- Self-certifying document that a sponsor licence holder issues to a sponsored work visa applicant
- Reference number issued by a sponsoring employer
- Two types of CoS:
 - Defined CoS and
 - Undefined CoS

Defined CoS

- If the prospective employee is outside the UK

Undefined CoS

- The individual is applying for a skilled worker visa to remain in the UK

Assigning Certificates of Sponsorship

- Ensure the correct certificate is issued
- Individual used the reference number to make their Home Office visa application

Applying for Certificates of Sponsorship

- UK organisations will need to state how many undefined CoS it will require until 5th April
- Helpful for employers to consider their recruitment needs for the coming 12 months



Different Types of Visa Routes

Visa Routes

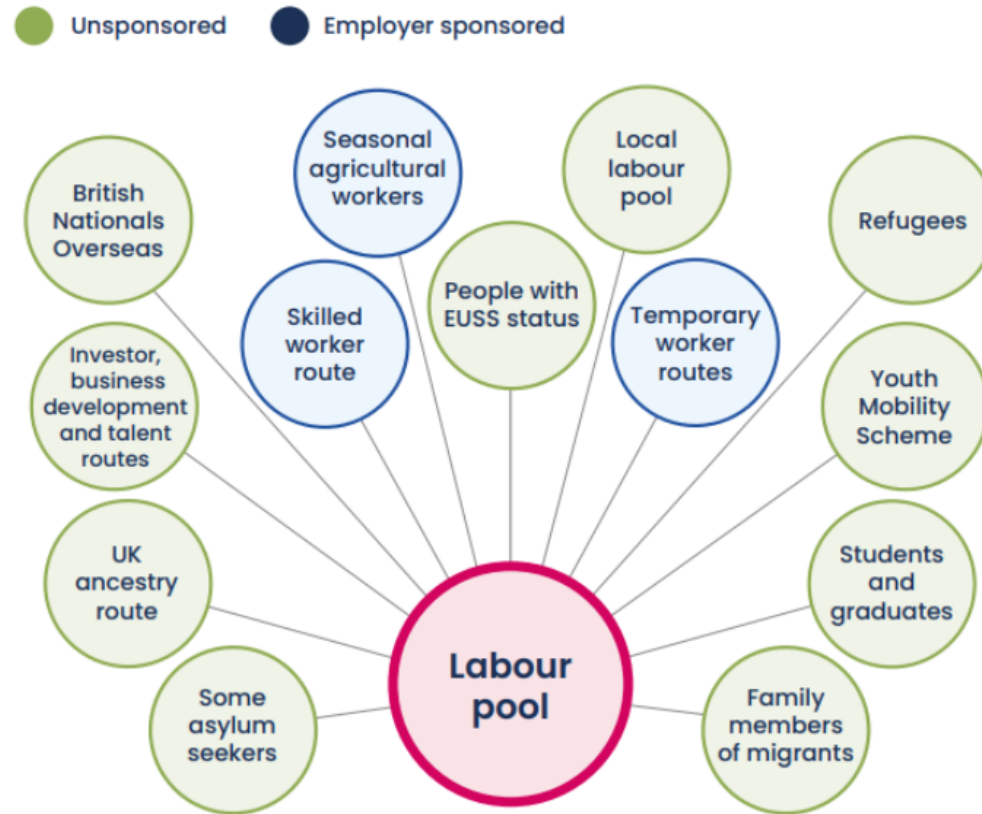


Image from the Government website: (www.gov.uk)

Skilled Worker Route

- Open to all non-British and non- Irish migrant workers who have been offered a skilled role by a UK employer
- Employer must have a sponsor licence, and there must be a genuine job in the UK
- Minimum skill and salary thresholds:
 - Skill: A level or above
 - Salary: Minimum level £25,600 or the going rate, if higher
- Note: The salary paid can be less than this amount if the role is a shortage occupation, or if the migrant is a new entrant to the labour market or has a relevant PhD
- English language and minimum financial requirements
- This route can lead to settlement in the UK after five years' continuous lawful residence in the UK

Skilled Worker Route: Minister of Religion

- Off shoot of the skilled worker route
- Apply for a Minister of Religion visa (T2) if:
 - The job offered is within a faith community (for example as a minister of religion, missionary, or member of a religious order) in the UK
 - The other eligibility requirements are met



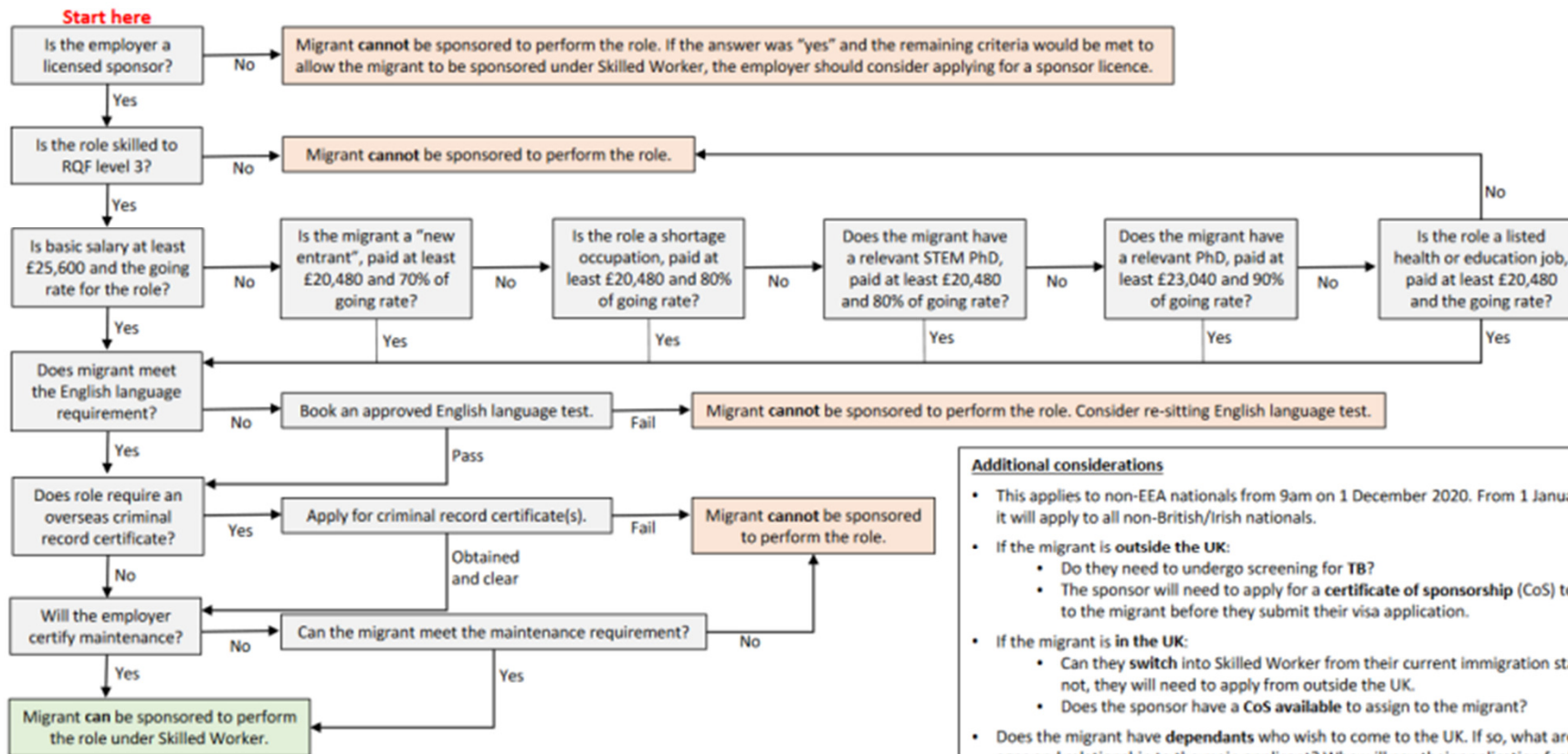
Skilled Worker Route: Sportsperson

- Off shoot of the skilled worker route
- Apply for a International Sportsperson visa if all of the following apply to the prospective employee:
 - They are an elite sportsperson or qualified coach, who's recognised by their sport's governing body as being at the highest level of your profession internationally
 - Their sport's governing body is endorsing their application
 - Their employment will develop their sport in the UK at the highest level
 - They meet the other eligibility requirements



Skilled Worker: eligibility checker

Produced by Practical Law



- Additional considerations**
- This applies to non-EEA nationals from 9am on 1 December 2020. From 1 January 2021, it will apply to all non-British/Irish nationals.
 - If the migrant is **outside the UK**:
 - Do they need to undergo screening for TB?
 - The sponsor will need to apply for a **certificate of sponsorship (CoS)** to assign to the migrant before they submit their visa application.
 - If the migrant is **in the UK**:
 - Can they **switch** into Skilled Worker from their current immigration status? If not, they will need to apply from outside the UK.
 - Does the sponsor have a **CoS available** to assign to the migrant?
 - Does the migrant have **dependants** who wish to come to the UK. If so, what are their ages and relationship to the main applicant? Who will pay their application fee(s) and immigration health surcharge?
 - This flowchart assumes the role is a **genuine vacancy** and the migrant does not fall for refusal under the **general grounds for refusal** (Part 9, Immigration Rules).

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The Global Business Mobility Routes

- 5 routes as follows:
 - Senior or Specialist Worker
 - Graduate Trainee
 - UK Expansion Worker
 - Service Supplier
 - Secondment Worker
- Does not lead to settlement in the UK



Temporary Worker Routes

- Various temporary work routes to the UK in the areas of creative, sporting, charity, religion, government authorised exchanges and under international agreements
- We will cover:
 - The youth mobility scheme
 - Government authorised exchange schemes
 - International agreement schemes



Sponsor Duties



Duties of a Sponsor



Record Keeping duties

Reporting Duties

Duty to Comply with UK Immigration Law and Guidance

Duty to Comply with Wider UK Law

Duty not to engage in behaviour that is not conducive to the public good

Record keeping



Copies of pages from the passport

Copy of Biometric Residence permit

The worker's National Insurance number

Contact details

DBS Check

Contract of Employment

Record of Absences

Records of Pay (pay slips, P45/P60)

Any other document relevant to the worker's visa type

Record keeping

- Documents related to Worker:
 - One year from end of sponsorship
 - The date from which a compliance officer examines and approves them
- Documents related to sponsorship licence:
 - As long as you have a sponsorship licence
- Some documents may need to be kept longer
- Is your privacy notice up to date?



Reporting duties



10 working days:

- Failure to start role on date specified
- Absent without leave for 10 working days
- Professional registration lapses
- Cessation of sponsorship
- Absent with leave for 4 or more weeks
- Change of title, duties, salary, location
- Change of sponsor but not employer
- Organisation status change

Reporting duties



20 working days:

- Change in company name
- Sale of business, takeover, merger
- Cessation of trade or insolvency procedure
- Change in nature of business
- Conviction of sponsor

The civil and criminal penalties for non-compliance



Penalties



Civil

Loss of unallocated COS

Downgrading of licence

Suspension of Licence

Loss of Licence

£20,000 per each illegal worker

Name and shame

Criminal

“reasonable cause to believe worker did not have right to work in the UK”

5 Years imprisonment

Unlimited fine

Questions



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Thank You

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