



McGILL & CO

# EMPLOYING OVERSEAS NATIONALS

## TIER 2 AND SPONSORSHIP UNDER THE POINTS BASED SYSTEM OF THE IMMIGRATION RULES

Employers could be forgiven for feeling a sense of trepidation about employing foreign migrants. It seems as if each week heralds another immigration law change combined with statements from Home Office officials about the stiff financial penalties levied on employers for employing migrants illegally.

Even determining an individual's right to work at a given juncture can present a complex task. A visa on a passport rarely tells the full story. Indeed large numbers of individuals will have visas that are well past their given expiry date, but which actually remain valid because of an outstanding application or appeal.

Against this backdrop businesses could be forgiven for considering that employment of foreign migrants is not worth the hassle. However it's important to remember some of the key benefits.

The first is the access to unique skills and experience that foreign migrants frequently provide. Businesses in the UK need to compete on a global stage. They face competition worldwide. Foreign migrants can provide valuable knowledge of foreign markets in their specialist field; often leading to new opportunities. They assist businesses in understanding and adapting for contracts outside the UK. Businesses can access a committed and highly educated labour force. Many foreign migrants here have initially come to study at a UK institution

before moving to the labour market or have impressive qualifications from internationally respected institutions.

We at McGill & Co work with a wide variety of employers sponsoring foreign migrants. Each one has commented in a positive way about their experience employing foreign migrants. Doing so can offer tangible benefits and exciting opportunities to expand market reach.

Perhaps the most compelling argument is simple profitability. Each year the Home Office undertakes a revision of the acceptable minimum salaries for different occupations. These are contained at Appendix J of the Immigration Rules. These minimums always reflect a fair level of remuneration. Their purpose is to ensure that foreign labour does not undercut the resident labour force. Employers cannot pay less than what a UK worker would expect. Nevertheless in many fields and occupations the salaries permitted reflect an extremely competitive level of remuneration from the perspective of the employer. These figures combined with the commitment and skill offered by foreign migrants can be a very attractive reason for taking the plunge and becoming a registered sponsor with the Home Office.

It is worth reviewing the list, available to view on the Home Office's website. It can be an excellent indicator

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of whether there could be an advantage to extending recruitment to foreign migrants. Equally many roles are included on a shortage occupation list at Appendix K of the Rules. This list provides further streamlining of the immigration processes in respect of those occupations that are in recognised shortage here.

Obtaining a licence to sponsor is not as painful as it may seem either. We have been working directly in this area for several years. The critical focus of the Home Office is simply to ensure that the sponsoring company is legitimate. The main requirements are for documents to be produced that will evidence the company's operation

from a specified list. Once the licence is acquired the organisation will have the ability to sponsor migrants. Doing so does create obligations and duties in respect of reporting to the Home Office, but these are not difficult to incorporate into HR functions that would already necessarily exist.

The overall message, perhaps swimming against a tide of negativity in the current climate, is that obtaining permission to employ foreign migrants is not difficult and the benefits can be numerous. Most importantly whilst Immigration Law can be complex, there are answers.

We pride ourselves on knowing these answers and being able to provide useful, reliable and instant advice to assist employers throughout the UK.



## GRACE MCGILL

Grace McGill is an experienced practitioner in Immigration & Refugee law who has specialised in this area of law for over 20 years. She established McGill & Co in April 2008, a specialised Immigration Law firm based in Scotland. Having extensive experience in all aspects of UK Immigration Law, Grace focuses on family migration including intercountry adoptions, investor applications and commercial immigration. She is particularly adept at the successful progression of complex immigration matters for individuals and provides skilled representation at all levels of the process. Grace is a member of the International Bar Association and the Immigration Law

Practitioners Association. She is also a member of the Commonwealth Lawyers Association and the British Association of Sport & Law.

She is the legal advisor in Immigration Law to Whichlaw UK and has been appointed to author the Immigration Law Chapter of the Stair Memorial Encyclopaedia. She is also appointed to the Board of Trustees for the Scottish Child Law Centre.

Grace has received recommendation by the Legal 500 in 2013 & 2014 and holds a Masters degree in International Human Rights Law.

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## DARREN STEVENSON

Darren is an associate solicitor with McGill & Co. Over the last 6 years Darren has developed significant expertise in the acquisition and retention of sponsorship licences. He acts for a wide variety of organisations, from large multi-national companies to SMEs, throughout the UK. He undertakes outsourced Sponsorship Management System duties, carries out audit and compliance checks, and advises on the complex area of sponsorship

licensing for employers. He helps employers acquire the right people at the right time.

Before joining the McGill & Co team Darren worked for 5 years at the UK Border Agency. This combined experience from both government and private practice of immigration law brings a unique perspective and invaluable expertise.

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