

ASK GSC

HATEEM ALI, IMMIGRATION, SENIOR ASSOCIATE, AT GSC SOLICITORS,
ANSWERS YOUR QUESTIONS ON IMMIGRATION AND BREXIT.

Q *I own a business and we employ staff who are EU nationals. What will Brexit mean for me as an employer and what can my staff do to secure their long-term future?*

A Despite the hesitance of the government to make any commitment on the future of EU nationals, it still seems highly likely that transitional arrangements will be made and those most likely to benefit from any such arrangement are:

- EU nationals and family members who have already acquired permanent residence and
- EU nationals who have an EU right of residence but have not yet acquired permanent residence, and their family members.



Registration Certificate or Permanent Residence?

Any EU national in the UK will need to evidence five continuous years of a qualifying activity. The five year period could be any five year period, not just the last five years. You can also “mix and match” your qualifying activities, so you can combine say two years of employment with three years of being a student.

If an employee falls into the category of those who do not, at present, qualify for permanent residence, then it would be advisable for that EU national and his family members to apply for Registration Certificates or Cards as formal evidence of their current status in the UK with one eye on the future.

At this stage, as an employer it is important for you to understand the position as it stands today and provide the information that your employees need, particularly those who are still uncertain about how best to protect their position.

● If you have any questions on any of the legal topics on this page contact us at info@gscsolicitors.com or call 020 7822 2222; gscsolicitors.com

Q *I am a private landlord (or I own several rental properties) and I am not sure what the immigration “Right to Rent” checks mean for me and what I should be doing to protect myself?*

A The Immigration Act 2016 came into effect on 1 December 2016, consolidating on the earlier regulations.

The new legislation means that agents or landlords will be committing a criminal offence if they have “reasonable cause to believe” that the apartment or house they are letting is being rented by a disqualified tenant. Penalties range from a fine to imprisonment for up to five years.

Before the start of a new tenancy, you will need to undertake checks for all tenants aged 18 and over, even if they’re not named on the tenancy agreement itself.

Once you have ascertained which adults will use your property as their main home you will need to ask for original documents that prove the tenant can live in the UK. For example, a biometric residence permit, a vignette (HO sticker in a passport) or an Immigration Status document. You will need to make copies of these documents.

While you are with the tenant you will need to check the visa(s) expiry dates and that the documentation is consistent, undamaged, and that the photo(s) on the document(s) look like the tenant(s).

A landlord’s responsibility does not necessarily end there and you will also need to make further checks before your tenant’s permission to stay runs out.



Q *We are a tech start-up and have identified a potential candidate from overseas to fill a very niche and specialist role in our business. What are the steps that I can take to secure a visa for them to come and work for us in the UK?*

A The actual application process is a four-stage process based on this particular scenario when trying to recruit directly from overseas.

● **Stage 1 - Resident Labour Market Test vs Shortage Occupation**

If the role in question is part of the Shortage Occupation List then the Home Office does not require a Resident Labour Market Test (a 28-day recruitment campaign) to have been completed and the application for a Sponsor Licence can

be made straightaway.

● **Stage 2- Sponsor Licence Application**
Once the recruitment campaign has been concluded on the basis that no suitable workers in the UK were found then the business would normally apply to the Home Office for the Sponsor Licence.

● **Stage 3 - Certificate of Sponsorship**
Once approved, the business will need to apply to the monthly Home Office allocation panel and set out their reasons as to why they require a Certificate of Sponsorship. If the Home Office are

satisfied then the business will be granted a Certificate of Sponsorship.

● **Stage 4 - Visa Application**
This is the final stage in the process and the prospective employee will have to complete an online application form, providing their personal details and quote their Certificate of Sponsorship unique number in that application.

With careful planning the ability for business to sponsor overseas workers can be a straightforward undertaking and a positive step for your business.

DISCLAIMER

The information and opinions contained in this article are for information purposes only. They are not intended to constitute legal or other professional advice, and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances. GSC Solicitors LLP shall accept no responsibility for any loss which may arise from reliance on materials contained in this article.