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The Business Visitor Scheme under the Points Based System

Summary

1 The Government have virtually abandoned immigration control for foreign workers coming to Britain for up to six months.

Introduction

2 The rules for business visitors under the Points Based System (PBS) were announced in mid-November. They are so full of loopholes as to undermine the entire scheme.

Basic Conditions

3 The new rules (see Annex A, especially the passages in bold) require that the applicant support himself or herself, without working and without help from public funds. Crucially, however, they permit support and accommodation by relatives and friends; this is impossible to police. A genuine business visitor should be paid for by his company and should show that the funds are available before departure.

4 The visa is valid for six months. This is an invitation to engage in activities well beyond those of a visitor - indeed, many are permitted (see below).

Purpose of Visit

5 Business visitors can now include "seconded from overseas companies who have a contract with a UK company, provided they are being paid by an overseas company." This destroys the principle that there should be a company in Britain that is responsible for the behaviour, and return, of the migrant. It is likely to lead to a dramatic reduction in intra-company transfers as many employers will use the business visitor route instead. It is believed that there is already wide scale abuse of the business visitor route by a number of foreign-based consultancies, some of them in India. This rule will make it possible to replace a substantial part of a company's UK workforce with cheap labour from overseas. The foreign company would simply have to enter into a contract with an UK company and they could then second their workforce to the UK to carry out work that would otherwise be done by the resident labour force.

6 A further category listed is "advisers, consultants, trainers or trouble-shooters employed abroad

by the same company to which the client firm in the UK belongs, provided this does not amount to employment paid or unpaid for the UK branch". This is another provision that is impossible to police.

7 Another category is "persons undertaking specific, one-off training in techniques and work practices used in the UK, provided this is not on the job training." This is another potential loophole.

The role of the Entry Clearance Officer

8 In the past, the Entry Clearance Officer in the visa section of a British Embassy overseas was able to use his judgement as to whether or not an application was genuine. Under the new system the first stage of the application process has been out sourced to two private companies, one American and the other Indian. The documents are then sent to the Embassy for checking. The scope for "coaching" to help the applicant to tick the right boxes is extensive. Further, in most cases, there will be no personal contact - still less an interview - that might deter or detect false applications.

Conclusion

9 As always with visa matters, the devil is in the detail. In this case, the Government have got the detail seriously wrong. It will look good because the number of economic migrants will apparently fall as the system is circumvented. However, there will be a serious negative impact on both employment of British nationals in the UK and on the robustness of immigration controls generally.

Proposals

We suggest the following remedial steps:

- (a) Support by relatives or friends to business visitors should no longer be accepted; it should be for the employers to show that they are meeting the costs.
- (b) Business visits should be limited to six weeks.
- (c) Seconded from overseas companies should not be permitted. It should be for the UK company to achieve sponsorship status and seek a work permit for those workers who are required.
- (d) Entry Clearance Officers overseas should be required to call in 10% of applications, chosen at random, for interview.

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Annex A

How to come to the United Kingdom as a business visitor

This section explains how you can come to the United Kingdom as a business visitor.

To come to the United Kingdom as a business visitor you must be able to show that you:

- only want to visit the United Kingdom for up to six months;
- plan to leave the United Kingdom at the end of your visit; have enough money to support and accommodate yourself without working, help from public funds **or you will be supported and accommodated by relatives or friends;**
- do not intend to charge members of the public for services provided or goods received;
- do not intend to study;
- can meet the cost of the return or onward journey;
- are based abroad and have no intention of transferring your base to the United Kingdom even temporarily;
- receive your salary from abroad.

and that you intend to do one or more of the permissible activities of business visitors. These include attending meetings or conferences, negotiating deals and undertaking site visits. Full details of permissible activities will be available shortly.

How do I know if I am a business visitor?

Business visitors include:

- Academic visitors (may enter or stay for twelve months maximum, subject to entry clearance if over 12 months).
- Doctors taking the professional and linguistic assessment board (PLAB)
- Doctors coming for clinical attachment or dentists coming for observation
- Visiting professors accompanying students undertaking study abroad programmes. See guidance for further information.
- Film crews on location shoots only, provided they are employed or paid by an overseas company.
- Representatives of overseas news media provided they are employed or paid by an overseas company and are gathering information for an overseas publication or programme.
- **Secondees from overseas companies who have a contract with a UK company, provided they are being paid by an overseas company.**
- Religious workers undertaking some preaching or pastoral work during a business visit (eg to attend a conference), provided their base is abroad and they are not taking up an office, post or appointment.
- Interpreters and translators employed by an overseas company who are coming to the UK solely to accompany and provide a service to business visitors from the company.
- **Advisers, consultants, trainers or trouble shooters employed abroad by the same company to which the client firm in the UK belongs, provided this does not amount to employment paid or unpaid for the UK branch;**
- **Persons undertaking specific, one-off training in techniques and work practices used in the UK, provided this is not on-the-job training.**