

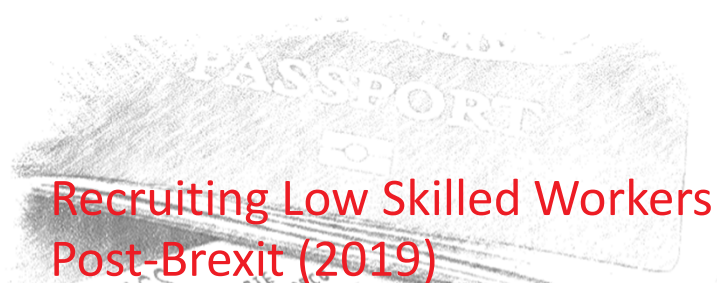


## Recruiting Low Skilled Workers Post-Brexit (2019)

4<sup>th</sup> December 2019

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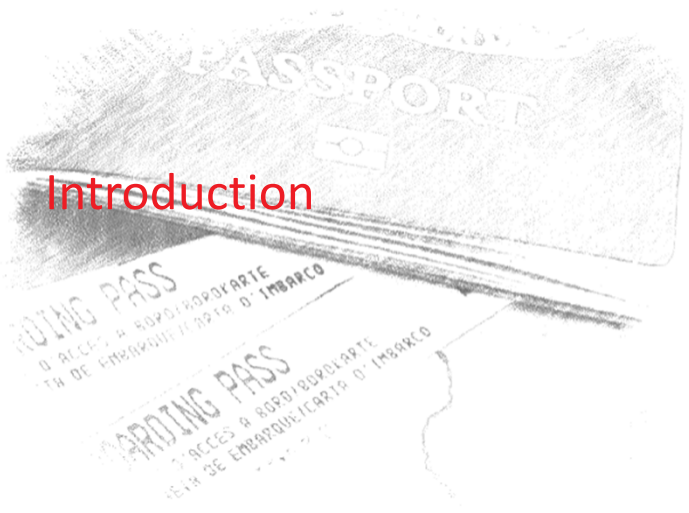
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## Recruiting Low Skilled Workers Post-Brexit (2019)

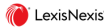
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**Introduction**

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# Low Skilled Workers

## Immigration perspective

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### Overview

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- Definition of low skilled worker
- The current system: Seasonal Agricultural Workers Scheme
- Future proposals: The White Paper
- Other routes: Points Based System
- Other routes: EU Settlement Scheme
- Businesses: Preparing for Brexit

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## Who is a low skilled worker?

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- No set definition for Low Skilled Workers under UK Immigration Law
- However, UK job roles are divided under the Regulated Qualification Framework (RQF)
- The skilled worker route (also known as Tier 2) requires a minimum RQF Level 6 job role
- Whilst low skilled workers are defined as those under RQF Level 3, there is also limited provision for those below RQF Level 6.
- A few examples of job roles at different RQF Levels are:
  - Example 1: RQF Level 6: Software Engineers, Doctors etc
  - Example 2: RQF Level 4: Managers in the agriculture sector, Dental technicians etc
  - Example 3: RQF Level 3: Hotel managers, Sales Administrators, Farmers etc
  - Example 4: Lower-skilled: Receptionists, Crane drivers etc

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## Background

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- Seasonal Agricultural Workers Scheme (SAWS)
  - First introduced in 1945 to address post-war labour shortages.
  - Allowed migrant workers from Bulgaria and Romania to work in the UK for a maximum of 6 months.
  - Closed at the end of 2013.
- Tier 3
  - Tier 3 placeholder kept for low skilled workers when Points-Based System was introduced in 2008
  - However, never implemented as government was aware that restrictions regarding Bulgarian & Romanian workers would be lifted soon.
  - EU workers filled the shortage gap

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## Seasonal Agricultural Workers Scheme (SAWS) 2018

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- The Return
  - Two-year pilot scheme from September 2018
  - Allows up to 2500 workers to enter for period of 6 months.
  - Transitional period for farmers to manage increased demand for seasonal labour.
  
- The Scheme
  - Department for Environment, Food and Rural Affairs (DEFRA)
  - Operators: Concordia Ltd and Pro Force Ltd
  - Maximum quota of 2500 Certificates of Sponsorships for visa approvals
  
- Concordia Ltd
  - Only accept workers through appointed agents in Ukraine, Romania (for Moldovan workers), Moldovan and Russia
  - Declarations of interest for 2020 will be considered in December 2019
  
- Pro-Force Ltd
  - Recruitment on direct basis
  - Weighting system used to allocate workers to various employers

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## Future Proposals

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- White Paper 2018
  
- Party Manifestos for December 2019 elections
  
- Post-Brexit Immigration system

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## The White Paper 2018

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- Why was no dedicated route for unskilled workers introduced?
  - Reliance on local workers encouraged
  - Move towards technology
  - Focus on best & brightest
  
- Temporary Workers
  - Enter for up to 12 months
  - Cooling-off period of 12 months
  - Only for those from specific low-risk countries
  - Lack of incentive
  
- Tier 2 – Reduction in minimum skill level
  - Current level is Regulated Qualification Framework (RQF) Level 6
  - Proposal to change this to RQF Level 3
  
- Tier 5 – Youth Mobility Scheme
  - Not a traditional labour route
  - Open up to low-risk countries, e.g. UK-EU YMS
  - Age restriction
  - No dependants

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## Party Manifestos 2019

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- None of the manifestos provide any provision for low-skilled workers
  
- Conservative manifesto is similar to the White Paper 2018 in-terms of Low-Skilled provision
  
- Labour Manifesto provides for a re-referendum and therefore does not address Brexit-related concerns

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## Are the current Post-Brexit Immigration proposals adequate?

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- Does not address the issues which will be faced by certain sectors such as hospitality, construction, agricultural and retail
- Heavily reliant on EU workers / low skilled workers
- Focus is on temporary workers rather than low skilled workers
- Fail to address the need of permanent lower skilled workers

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## Preparing for Brexit: Businesses

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- EU Settlement Scheme
  - How does it work?
  - Protecting existing employees
  - Seeking future employees
- Level of complexity
- How can employers assist?
  - Provide clear and regular up to date information on the EUSS
  - Encourage workers to apply under the Scheme by providing support such as workshops and seminars
  - Consult with EU workers on a regular basis to ensure they feel valued
- Considerations for EU low skilled worker
  - Will family members be able to live with them or join them in the future?
  - Financial factors
  - Social attitudes

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## European Temporary Leave to Remain (Euro TLR)

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- In the event of no-deal Brexit and are not protected under the EU Settlement Scheme.
- Can apply to enter the UK for a temporary period of 36 months
- Cannot extend their leave, apply for settlement or apply under the EU Settlement Scheme
- Will need to follow a new immigration route under the new immigration system which will be in full force in 2021 if they would like to stay in the UK for longer.
  - Uncertainty as to whether any of the new routes will have provisions for low skilled workers

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## Alternative routes

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- Dependants of PBS Visa Holders
- Spouse Visa
- Ancestry Visa
  - No restriction on the minimum skill level
  - Do not require a company to sponsor you (last two)
  - Less expensive application
  - No restriction on where you can work and who for

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## Sponsor Licence

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- In the future, to be able to sponsor highly skilled workers from the EU and outside of the EU
- No cap on the number of skilled workers which can be sponsored
- Removing delays through allocation
- Reduce salary thresholds – Is salary really indicative of how skilled a worker is?
- Proposal to make the system more cost-efficient, less time-consuming and simpler through an overhaul of the Sponsor Licence Management System (SMS)
- But still expensive for businesses – including Immigration Health Surcharge

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## Risk of illegal working

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- If there is no or limited provisions for low skilled workers under the new immigration system, then there may be a risk of illegal working.
- This may lead to exploitation of EU workers who may be willing to work below the minimum wage.
- Subsequent toughening on the right to work check regime?
- Employers need to be wary of the prevention of illegal working legislation

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## Discussion

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- Routes which are likely to be implemented is the temporary worker and seasonal worker Schemes.
- Temporary routes are to assist with the transitional period which may cause a shortage of low skilled workers. Aim would be that local workers will be able to replace any migrant/EU workers.
- But are local workers willing to take low skilled jobs?
- Government's view is that there is limited economic value in seeking to attract lower skilled workers to the UK
- Changing attitudes – highly skilled workers still only represent a small proportion of the workforce, whereas low skilled workers make up a significant proportion of the workforce. Should we be focusing on making low skilled jobs more attractive?

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## Conclusion

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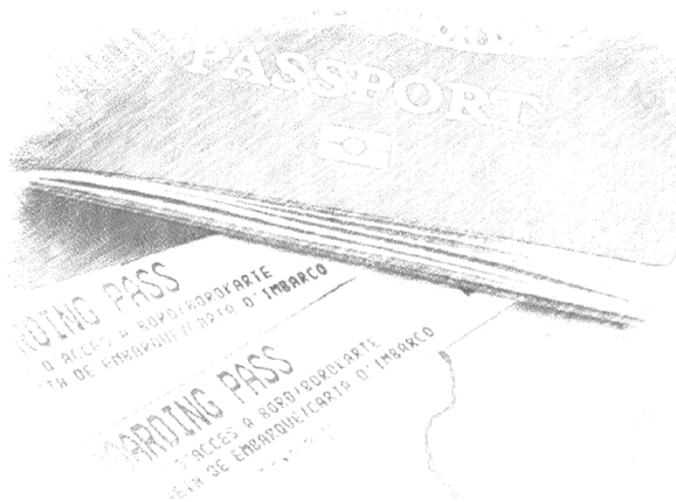
- Low Skilled worker dilemma
- How to prepare for a low-skilled worker shortage in light of Brexit
- Future proposals

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## Upcoming Immigration webinars

- Tier 2 Visas in 2019 – **18<sup>th</sup> December 2019**



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## On Demand Immigration Law webinars

- Challenging immigration decisions – **Available until 7<sup>th</sup> March 2020**
- Illegal working – **Available until 22<sup>nd</sup> May 2020**
- Tier 2 visa update – **Available until 1<sup>st</sup> October 2020**
- Immigration Update – The MAC Report on EEA migration in the UK – **Available until 6<sup>th</sup> November 2020**
- Hostile environment measures – **Available until 20<sup>th</sup> November 2020**
- Brexit and the consequences for business immigration (2019) – **Available until 5<sup>th</sup> February 2021**
- Immigration Law – Spring Update 2019 – **Available until 30<sup>th</sup> April 2021**

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## Thank you and reminders

- This webinar is designed to help solicitors meet requirements A2 (Maintain competence and legal knowledge) and A4 (Draw on detailed knowledge/understanding) of the SRA's Statement of solicitor competence. You may also use the quiz, which can be accessed via the "Take a quiz" link on the webinar details page, to reinforce your understanding of the webinar content. You should answer 7 out of 10 questions correctly and will have two attempts at the quiz.
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