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## European Employment Law Briefing: The UK's New Points Based Immigration System - Are You Ready For Sponsorship?

The Government will, later this year, introduce further important changes to the UK's immigration system which will have a serious impact on employers' ability to hire non-European Economic Area (EEA) nationals in the UK and to transfer such individuals on an intra-company basis. The Government is currently implementing its new Points-Based System (PBS) which is based on the Australian immigration system and will be a radical departure from the current immigration schemes, including the work permit schemes.

The PBS is divided up into five different tiers of employees, ranging from highly skilled workers to temporary workers. Under the new system, UK employers who wish to employ non-EEA nationals or to make intra-company transfers of non-EEA nationals must be registered with the UK Border Agency and obtain sponsorship licences. The one exception is in respect of individuals seeking to work under the highly skilled tier of the PBS, known as Tier 1, who do not require a sponsor. Successful employers will be added to the register of sponsors and will be able to issue certificates of sponsorship to qualifying employees when applications under the new PBS begin later this year. A sponsorship licence will be valid for four years starting from the later of the day it is issued or the day applications start for the relevant tier.

Applications for sponsorship licences must be made by the employer electronically and supporting documents must be submitted separately (together with the appropriate fee) within 10 working days to demonstrate that the employer meets the relevant criteria. Employers who wish to employ individuals under several different tiers must apply for licences in respect of each of those tiers but this can be done on the same application form if appropriate.

At present, employers can only apply for a licence for Tier 2 (General) - skilled worker and/or Tier 2 - intra-company transfer. Employers will be able to apply for licences in respects of Tiers 3 - 5 in the coming months depending upon the timetable under which the PBS is rolled out.

It is almost inevitable that as we move closer to the implementation time for the PBS, the registration time for obtaining the sponsorship licence will increase as more applications are made.

Accordingly, employers who believe that they may, in the future, wish to hire or transfer non-EEA nationals in the UK (especially under Tier 2) should consider in the short term whether they wish to make an application for a sponsorship licence.

The potential downside in not doing so is a possible future delay if an employer wishes to hire or transfer someone quickly once the PBS is implemented. It must also be remembered that companies that employ individuals in the UK without the appropriate permission to do so will face fines of up to £10,000 for each unauthorised worker and any employer that knowingly employs individuals without permission may be prosecuted for a criminal offence and would potentially face an unlimited fine and/or imprisonment.

If you have any questions concerning the material discussed in this client alert, please contact the following members of our EU Employment Group:

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