

Clients from the new EU Member States

Rights and entitlements –
the legal situation

Who are we talking about?

A8 Countries

- Czech Republic
- Estonia
- Hungary
- Latvia
- Lithuania
- Poland
- Slovakia
- Slovenia

A2 Countries

- Bulgaria
- Romania

Freedom of movement

All members of the EU/EEA can:

- Move and reside freely in any member state
- Can remain legally resident in that state as long as they wish as a student, a self-employed person, or if economically inactive but self-sufficient

Employment – A8 nationals

- Can take up any employment in the UK
- Must register with the Worker Registration Scheme within one month of starting work

The following A8 nationals will be required to register under the WRS:

- All A8 nationals who take up new employment in the UK on or after 1/5/04
- Part-time workers
- Students who are working
- Short-term and temporary workers
- A8 spouses & dependants of A8 workers who arrive in the UK on or after 1 May 2004 and wish to work in the UK

Employment – A2 nationals

- A2 nationals need to get permission to work before starting any work in the UK
- Work permits will be issued to workers under the existing work permit (points based) system, largely to highly skilled migrants
- Once have work permit the employee must then apply for an Accession Worker Card (AWC)
- Work permits will be issued to lower skilled workers for approved seasonal agricultural work and food processing. There is a set quota of permits which will be granted. No need to apply for an AWC
- After working continuously for 12 months obtain full rights as an EU worker – therefore can work without restrictions

Spouses/civil partners of A2 nationals

- Where an A2 national has permission to work (except under the quota system or the sector based system), their spouse will also be able to apply for permission to work but will not be subject to the skills test or restricted to particular employment.
- They will need an AWC if their spouse also needs an AWC.

Other possibilities for A2 nationals

- Self-employment – must register with Inland Revenue and pay taxes/NI contributions
- Student – can work up to 20 hrs per week with permission from the Home Office

Benefits

- Most benefits will be unavailable to A8 or A2 nationals due to the 'right to reside' test
- An A8 & A2 nationals will fulfil the conditions of the test after they have worked legally for 52 weeks
- A8 & A2 **workers** are entitled to claim appropriate benefits while working legally but before completion of 52 weeks – e.g. Child Benefit, FamilyTax Credit, Housing Benefit

Housing and Homelessness

- A8 & A2 **workers** are treated as having the right to reside and being habitually resident
- Therefore, they are eligible for access to social housing under the Allocation of Housing Regulations (NI) 2004
- A8 & A2 **workers** are also eligible for assistance under homelessness legislation

Other Housing possibilities for non-workers

- For those with children, an application for accommodation could be made under s17 of the Children Act 1989
- For those who are particularly vulnerable an application for accommodation could be made under s21 of the National Assistance Act 1948
- Both of these provisions are extremely tenuous and anyone seeking to rely on them should get expert legal advice

Essentially, in most cases the questions to ask to assess entitlement to benefits or housing are:

- Is the client or their spouse working legally (employed or self-employed)?; or
- Has the client completed 12 continuous months of legal employment in the UK?

If the answer to either of these questions is yes, then client is likely to have some entitlement.

If the answer to both is no, then unlikely to have entitlement.

Are these restrictions indefinite?

- Governments of EU countries allowed restrictions for possible total of 7 years then A10s must have same rights as other EU nationals
- Up to 30 Apr 2011 for A8 nationals
- Up to 31 Dec 2013 for A2 nationals

Health

- Entitled to register with a GP subject to usual conditions (e.g. proof of id and address) and receive free primary care
- No entitlement to free prescriptions
- Entitlement to secondary care dependant on being 'ordinarily resident' in the UK
- For drug and alcohol services can usually access detox but not rehab treatment

Education

- Dependent children can attend school in the UK
- Entitlement to assistance with school meals etc. unlikely as is dependant on parent receiving a qualifying benefit
- Adult education – A8 & A2 nationals are treated as home students for fee purposes