



NO RACIST IMMIGRATION LAWS

A response by the Communist Party to the Conservative Government's Immigration 2020 proposals and the development of a new approach

Introduction

In the midst of the Covid 19 crisis Government pushed ahead with its points-based immigration system. Both Labour and Employer Groups criticised the move. Employers due to the pressure on employers to cope with the health crisis and Labour because the proposals discriminate against many key workers.

This paper, which was originally written prior to the lock down, primarily focusses on the Government's 2020 immigration proposals. It also draws on experiences both pre and post the UK joining the Common Market/ EU.

Britain has operated racist laws for a number of decades. Indeed it is now known that the post WW 2 government designed its policies with an aim of attracting white commonwealth citizens and discouraging black and ethnic minority commonwealth citizens. In order to achieve class unity we must take the fight to the ruling class who seek to divide us. We must expose the anti worker and racist nature of all the existing immigration and nationality regulations.

The Government published its response to the Migration Advisory Committee (MAC) proposals on a points based immigration system on 19th February 2020. MAC had been asked to put forward its views by Government in June 2019 on salary thresholds and subsequently in September specifically about an Australian Points Based System (PBS) and did so in January 2020.

Government intends to introduce changes to existing UK Immigration arrangements on 1 January 2021.

The MAC proposals and initial responses

The proposals from MAC rejected a full shift to an Australian points-based system, instead it recommended a mixed system, which would rely on a minimum salary threshold for those coming to the UK with a job and a points based system for those entering without a job. The salary threshold was to be set at a lower level than currently applies for non EU citizens. It recommended £25,600. It noted that the UK already had a points based system from 2008 – introduced by the Blair Government. The Federation of Small Businesses argued that the minimum should be set at about £20,000 and welcomed the route for those without a job offer, but argued it should be open to others not just highly paid professionals.

The Food and Drink Federation argued that the salary minimum was too high. Given its reliance on EU workers this wasn't surprising.

Others expressed concern about the ability to recruit cleaners, security and waiting staff.

MAC also highlighted the impact on social care but surmised that the inability to recruit and retain was down to poor terms and conditions in that sector. Something of course the Government has failed to address – promising to do so by mid March 2020, during the 2019 General Election.

Government Proposals

Free movement from the EU will end and an Immigration Bill will be brought in to bring in a points-based system that will attract high-skilled workers.

The new system that will change the way in which all migrants come to the UK to work, study, visit or join their family.

From 1 January 2021, EU and non-EU citizens will be treated equally. Government without setting a target wish to reduce overall levels of migration and give top priority to those with the highest skills and the greatest talents: scientists, engineers, academics and other highly-skilled workers. They say that they remain committed to protecting individuals from exploitation by criminal traffickers and unscrupulous employers.

Government does not intend to introduce a general low-skilled or temporary work route, contrary to the views of many including MAC. It wishes the focus of the economy to move away from a reliance on low-skilled and low-waged workers instead concentrating on investment in technology and automation. Employers will need to adjust it is said!

The Settlement Scheme for EU citizens, which opened in March 2019, has received 3.2 million applications from EU citizens (January 2020) who will be able to stay and work in the UK. Government believes that this will provide employers with flexibility to meet labour market demands. This is probably unlikely given most EU citizens who have applied for settled status are already in work.

Initiatives are also being brought forward for scientists, graduates, NHS workers and those in the agricultural sector, which will provide businesses with additional flexibility in the shorter term.

Alongside this policy statement Government stated that it will shortly publish its response to the Law Commission Report on Simplification of the Immigration Rules which will set out how it proposes to provide the foundations for a streamlined and simplified system.

The UK's points-based and salary system

It is worth noting that other nations use a points based system for example Australia and New Zealand.

The general salary threshold has been set at £25,600. Migrants will still need to be paid the higher of the specific salary threshold for their occupation, known as the 'going rate', and the general salary threshold. However, under the points-based system for skilled workers, applicants will be able to 'trade' characteristics such as their specific job offer and qualifications against a lower salary. There will continue to be different arrangements for a small number of occupations where the salary threshold will be based on published

pay scales. Requirements will be set for new entrants which will allow a wage to be set at 30% lower than the rate for experienced workers in any occupation. The requirement is for base salary only (and not allowances, overtime or pension contributions). Regional salary thresholds or different arrangements will not be set for different parts of the UK. Neither can salaries be pro-rated. This will have an impact on job holders with caring responsibilities.

The existing skills threshold will be reduced from degree to A level equivalent and the existing cap on the number of people who can come on the skilled worker route, will be suspended and the resident labour market test, will be removed.

All applicants, will need to demonstrate that they have a job offer from an approved sponsor, that the job offer is at the required skill level, and that they speak English. In addition to this, if the applicant earns more than the minimum salary threshold then the individual would be eligible to make an application. However, if they earn less than the required minimum salary threshold, but no less than £20,480, they may still be able to come if they can demonstrate that they have a job offer in a specific shortage occupation, or that they have a PhD relevant to the job. In effect, applicants will be able to 'trade' characteristics such as their specific job offer and qualifications against a salary lower than the minimum salary or the 'going rate' in their field.

This trading will obviously enable employers to offer jobs below the going rate potentially setting worker against worker.

The chart below outlines what can be done.

Characteristics	Tradeable	Points
Offer of job by approved sponsor	No	20
Job at appropriate skill level	No	20
Speaks English at required level	No	10
Salary of £20,480 (minimum) – £23,039	Yes	0
Salary of £23,040 – £25,599	Yes	10
Salary of £25,600 or above	Yes	20
Job in a shortage occupation (as designated by the MAC)	Yes	20
Education qualification: PhD in subject relevant to the job	Yes	10
Education qualification: PhD in a STEM subject relevant to the job	Yes	20

A total of 70 points is required to be eligible to apply; some characteristics are tradeable.

Government gives two examples: A university researcher in a STEM (science, technology, engineering, and mathematics) subject wishing to come to the UK on a salary of £22,000, (which is below the general minimum salary threshold), may still be able to enter the UK if they have a relevant PhD in a STEM subject. Likewise, a nurse wishing to come to the UK on a salary of £22,000 would still be able to enter the UK on the basis that the individual would be working in a shortage occupation, provided it continues to be designated in shortage by the MAC.

MAC is to be commissioned by Government to produce a shortage occupation list

covering all jobs encompassed by the skilled worker route and to keep the list under regular review. Allocating extra points for occupations that the MAC determines to be in shortage in the UK will provide immediate temporary relief for shortage areas, making it easier to recruit migrants. However, Government expects employers to take other measures to address shortages and the MAC will look at this when they review whether an occupation is still in shortage.

It is also important to recognise that in some higher paid occupations, the 'going rate' will be above the general salary threshold. Migrants will still be awarded points for holding a relevant PhD or if the occupation is in shortage, which they will be able to trade against a salary lower than the 'going rate': 10% lower if they have a relevant PhD in a non-STEM subject; 20% lower if they have a relevant PhD in a STEM subject; or 20% lower if the occupation is designated in shortage by the MAC. There will continue to be reduced salary requirements for new entrants to the labour market.

Highly-skilled workers

Government will extend the current Global Talent route to EU citizens on the same basis as non-EU citizens. The most highly skilled, who can achieve the required level of points, will be able to enter the UK without a job offer if they are endorsed by a relevant and competent body. This scheme has recently been expanded to be more accessible to those with a background in STEM subjects who wish to come to the UK.

Government will create a broader unsponsored route within the points-based system to run alongside the employer-led system.

Lower-skilled and lower paid workers

The Government whilst not having an overall target for net migration has stated it is committed to reducing overall numbers. It has decided to achieve this objective by not implementing a route for lower-skilled workers. Such workers are generally the most exploited and lowest paid. It has been said that Government's policies has got in the way of the needs of the economy.

It says that UK businesses will need to adapt and adjust to the end of free movement. Employers should move away from a reliance on the UK's immigration system as an alternative to investment in staff retention, productivity, and wider investment in technology and automation.

The impact on the care sector has been condemned by Unison who have called on government to make specific proposals to deal with these ongoing problems.

Government is committed to expanding the pilot scheme for seasonal workers in agriculture which will be quadrupled in size to 10,000 places. The UK also enjoys youth mobility arrangements with eight countries and territories which results in around 20,000 young people coming to the UK each year. Both routes will it says provide employers with further ongoing flexibility in employing individuals into lower-skilled roles.

Home Secretary Patel has says that 8 million 16 to 64 year olds are economically inactive. If true many are students, carers or long term sick and is therefore not a guaranteed pool of labour. Figures produced by the ONS for this cohort shows that 27% are students, 26% are too ill to work, 22% are home-keepers or carers and 13% have actually retired prior to reaching 65. Clearly Government has not done its maths, but worryingly it is going to rely on older workers to undertake what are physical jobs as pension ages rise under this government. This is something Trades Unions and Pensioners Groups must coordinate action on.

Currently foreign nationals make up a sixth of the 840,000 care workers in England. Figures although not immediately available are similar in the other nations that make up the UK. Care work is not classed as a shortage occupation. Its pay rates generally fall under £20,000.

Britain has a number of large scale construction projects including HS2. There is an ambition to build many more homes. The reliance on foreign- born workers is most widely felt in London and South East.

One in 12 NHS jobs are unfilled. Many roles have been contracted out. Whilst Doctors and Nurse recruitment should be OK, lower paid staff such as health care assistants and porters will be impacted.

Whilst Government has said that it will pilot arrangements for 10,000 seasonable agricultural workers the industry estimates it needs 70,000. Veterinary Nurses earn less than the minimum wage requirements and the service as a whole will need an increase in employees due to trade rules etc.

About 230,000 EU citizens work in accommodation and food services many in London and South East. As wage rates are low and the majority of jobs are considered to be low skilled such workplaces will be hit hard, unless recruitment and pay rates are improved. Should such industries be unable to recruit there will be an impact the industry which will have an impact on such services as tourism.

Students and specialist occupations

Students will be covered by the points-based system. They will achieve the required points if they can demonstrate that they have an offer from an approved educational institution, speak English and are able to support themselves during their studies in the UK.

Under the current immigration rules, there are a range of other immigration routes for specialist occupations, including innovators, ministers of religion, sportspeople and to support the arts. From January 2021 existing routes that already apply to non-EU citizens, to EU citizens will apply.

International students will be able to work in the UK two years after graduation, but there is concern about pay rates below the salary threshold.

Other routes

The rules for family reunion, asylum and border crossing checks are outside of the points-based system. However, Government say that they will remain integral to the UK's new immigration system programme. Government's attitude to unaccompanied minors and its hostile environment make these commitments extremely dubious.

Government expects to treat EU citizens as non-visa nationals meaning they can come to the UK as visitors for six months without the need to obtain a visa.

There will not be a dedicated route for self-employed people in the Government's plans it says however that there are several professions where there is a heavy reliance on freelance workers. The UK's existing rules permit artists, entertainers and musicians to perform at events and take part in competitions and auditions for up to six months. They can receive payment for appearances at certain festivals or for up to a month for a specific engagement, without the need for formal sponsorship or a work visa. Such rules must be challenged as there have been a number of high profile cases when performers have been refused visas.

Criminality

Given the Government's approach to deportation of people who have resided for many years in the UK. The levelling down without a proper review and publication for example of the Windrush Report will need to be opposed. It is now reported widely that Government has altered the report to ensure it is less critical of its actions.

Gaps

The plans do leave many questions unanswered, for example it doesn't deal with key questions of citizenship and nationality or potential impacts on children when they reach age 18.

Initial response from Labour Organisations

The TUC responded to the MAC consultation on government plans to extend salary thresholds to EU workers and introduce an 'Australian style' points based system to immigration where the government, rather than employers, assesses migrant workers on the basis of certain characteristics, with a particular emphasis on skilled workers.

It stated that

- The TUC does not believe the government should introduce any new points-based system for immigration or extend salary thresholds to EU workers.
- The government's proposals in the immigration white paper to introduce time limited visas for EU workers, particularly the proposed 12 month work visas for low skilled workers, will increase exploitation and undercutting.
- EU workers on the 12 month low skill visa are likely to be employed in low paid jobs where they will be vulnerable to exploitation due to low trade union coverage.
- Trade unions in Australia have documented that temporary visas in their points-based system have encouraged exploitation, particularly for workers on the Working Holiday visa.
- Restricting the number of visas available for low skill jobs will increase shortages in key public sector roles
- Ending free movement and introducing a points based immigration system and salary thresholds for EU workers goes against single market rules. The TUC believes that membership of the single market and a customs union with the EU must be part of any Brexit outcome to ensure there will be barrier free trade, on which millions of jobs depend, and that UK workers continue to be protected by EU levels of rights.
- As outlined in the TUC report 'Building solidarity, stopping undercutting', the TUC is calling for the government to maintain free movement rights, provide a guaranteed right to remain for all EU citizens in the UK and enhance labour market protections and sectoral bargaining structures to guard against exploitation. This must be accompanied by major investment in skills, public services and an active industrial strategy so that everyone has the public services they need and the opportunity to get a decent job.

In responding to the Government Announcement on 19th February 2020 it blogged under the headline that **'the Government plans for new restrictions on migrant**

workers will make it easier for bad bosses to exploit everyone that works.'

Quite rightly the TUC argued that the way to stop exploitation is to pay everyone the the same rate for the job, giving them the same workplace rights. Government needed to boost pay, ban zero hours contracts and the right to join a union. The TUC again is right to state that people granted short term visas are more likely to be exploited. A new visa system for EU citizens could result in a Windrush mark 2 as more document checks are rolled out across society. The TUC states that Government must guarantee EU citizens their rights and that collective bargaining will stop workplace exploitation.

Unite the Union argued for workplace safeguards to stop the abuses of migrant labour.

The Morning Star's Editorial correctly stated: **Tory Immigration plans seek to divide workers – how do we fight back?**

The clampdown on allegedly 'Low Skilled' immigrants is a clear bid to divide working class communities. The supposed concern that Immigrants speak English reeks of hypocrisy when Tory Governments have slashed more that £100 million from English teaching for speakers of other languages.

The tying of visas to employers is open to massive abuse and exploitation. Additionally as reported by anti slavery charities not allowing migration into so called low skilled, but in reality low paid work will result in other routes being found – traffickers etc.

A non racist Immigration Policy

Given the debate it is vital that the Left responds on a class basis rejecting any attempt to set worker against worker. The left cannot pose as champions of EU free movement. And whilst Communists want to see a world where all can come and go without restrictions , the material conditions do not exist for this.

Country's such as Cuba have shown their internationalist approach by offering its skilled health workers to country's that have under developed health services. This is in contradiction to the USA which wishes to see free movement of labour linked to capitalist exploitation.

We must also recognise that, as has happened within the EU and recognised by the EU Commission, free movement of labour can result in nations losing many of their skilled younger workers. What we must do is challenge the anti worker, racist nature of the existing immigration and nationality laws and regulations, both pre and post membership of the European Union. We must link these demands to a demand for higher and safeguarded employment and social security rights.

The recent report into the health of the nation highlights that people (particularly women) now have a lower life expectancy than 10 years ago if living in poorer areas – a direct result of austerity brought in by the Conservative Party. By doing so we have the potential to expose Government as the anti working class party it is.

We must not echo the dismay of business owners who doubt their ability to recruit which is a tacit endorsement of a low wage economy

The TUC are right to argue against a points based system it as will be arbitrary. It also attempts to implement a free market approach to jobs alongside a planned points based system. The Left must agree that all potential migrants are treated the same AND that labour requirements are properly planned and resourced. The Government's plans will embed the two tier work force, that already exists in many of our workplaces. Tying jobs to a specific employer will put a lot of power the hands of capital rather than workers

organisations.

In its pamphlet *Workers of all Lands Unite* (2018) the Communist Party put forward a response which was rooted in labour movement actions and organisations.

We argue for instance that all existing immigration, asylum and nationality laws must be replaced by legislation that is fully in accordance with International Conventions and the Human Rights Act.

The Government plans must be tested against these objectives. All new immigration laws and regulations must be subject to race impact assessments.

Sectoral discussions must take place between Unions and Employers. In order that terms can be set across Industries, on wages, employment rights, skills and employment requirements.

Employment rights must be enshrined in law – Government has said it will not lower such standards, with the points based system and salary levels in the plans, migrant workers should be able to partake in industrial action for example

EU and Commonwealth Citizens should have the right to remain. The recent deportations should act as a wake up call for all.

There should be an amnesty for over-stayers.

Unaccompanied minors should be allowed into Britain and treated humanely.

Full support should be given to those opposing unjust and inhumane deportations.

Additionally as the Institute of Employment Rights has argued in its manifesto for labour law (2016) which included proposals for a collective bargaining act and other legislative reforms to protect workers both domestically and across international supply chains, must continue to be argued for,

In taking this case forward Organised Labour has a clear role. It cannot leave its anti racist training to others, Unions must recruit all workers and take action to ensure that none are victimised. Whatever immigration system we end up with there are already too many tiers in our employment and workplace rights. Unions should take up the campaign as agreed by the TUC for a fair employment deal.

The Communist Party proposes that in place of racist immigration and other laws that there must be a democratic non racist Nationality Act and a totally new set of humane, democratic immigration rules. There should be a single category of UK citizenship, with equal rights for all. Such rights should apply to those born or adopted here, or who if born outside, have a mother, father, or grandparent who was born in the UK, or have citizenship already. After a specified period of residence those living here must have full rights to citizenship AND full rights should be restored predominantly black British citizens who were deprived of their rights in previous acts, 1962, 1968, 1971, 1981 and 2014 for example.

There are specific rights of citizens born in the Republic of Ireland, Channel Islands and Isle of Man under the common Travel Area Agreement. These should be retained. (government does not in fact intend to do so).

Finally the left should demand the restoration and extension of ESOL courses provided free for those who seek to learn English (or other British languages); with women only courses to increase accessibility if required.

Conclusion

The Communist Party is keen to work with others in the development of these proposals.

We are aware that the Government itself will be put under substantial pressure to alter its draft Bill once presented – we must ensure that this pressure not only comes from within the Conservative Party and employers.

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