

Briefing note

The Migration Advisory Committee's recent advice to the UK Borders Agency (UKBA) on shortage occupations: implications for pharmacy

Purpose

To brief members on recent changes to visa requirements affecting non-EEA overseas pharmacists, non-EEA overseas pharmacy technicians and non-EEA overseas pharmacy students.

1. Background

From 2008, the UK has operated a points and tiers system to evaluate whether non-EEA migrants can work in the UK. There are several tiers and predominantly pharmacists are classified as 'Tier 2 Skilled Workers'. Subject to the usual checks, Tier 2 skilled workers are admitted to the UK automatically if they are included on the UK Borders Agency's [UKBA] Shortage Occupations List. Until recently the List included 'Pharmacists (including pre-registration pharmacists)'. This meant that non-EEA pharmacists could apply to take an Overseas Pharmacists' Assessment Programme [OSPAP], enter pre-registration, take the Registration Examination and join the Register of Pharmacists, working in any sector of the profession.

The UKBA is advised by the Migration Advisory Committee [MAC] on which occupations should be on the List. Inclusion on the List requires an occupation to satisfy a number of 12 economic and statistical indicators relating to pay rates, vacancy rates and lengths of vacancies etc... When an occupation is being reviewed, the MAC invites interested parties to provide evidence to add to the statistical data.

The current position for pharmacists and pharmacy technicians

In April 2009 the MAC launched a review of the Shortage Occupations List. Its report on the review is *Skilled, Shortage, Sensible, First review of the recommended Shortage Occupations List for the UK and Scotland, Spring 2009*. It included a review of pharmacists. The proposal was to replace 'Pharmacists (including pre-registration pharmacists)' with 'Pharmacists working in the NHS or hospitals' thereby excluding community pharmacists from the List. In the review, pharmacy technicians were also withdrawn from the List. The proposals became UKBA policy on 15 June 2009.

2. Consequences of the policy decision on 15 June 2009

i. Consequences for OSPAP students

Most OSPAP students graduating this Summer have pre-registration places and the vast majority have work visas. They are not affected by the MAC's decision (except the ones without visas). Students enrolling on an OSPAP in the 2009-2010 academic year are unlikely to have secured a pre-registration place or a work visa. As the vast majority practise in community pharmacy, many will be affected.

ii. Consequences for non-EU overseas students on MPharms

Non-EU students on MPharms are not affected to the same extent. They are allowed to enter the UK as students through Tier 4 and are able to work in the UK for two years after

graduation on a Tier 1 post-study work visa. In other words, students can take an MPharm, enter pre-registration and work for one year. They must apply for the post-study work visa within one year of graduation. This applies to students studying for four years in the UK and also students on '2+2' MPharms, where two years of study are undertaken overseas: this has been clarified explicitly with the MAC Secretariat.

iii. The Society has raised a number of issues with the MAC for clarification

1. Can non-EEA pharmacists be employed if they were made a job offer before 15 June 2009 but don't yet have a visa?

The MAC answer: Only if their current immigration status allows them to undertake this work.

2. Will the visa of a non-EEA pharmacist currently in employment be renewed?

The MAC answer: Non-EEA pharmacists currently employed on work permits can apply for an extension under Tier 2. There are transitional arrangements that mean they do not need to meet most of the points requirements. They will only need a certificate of sponsorship and to be paid the appropriate salary rate identified in UKBA codes of practice (<http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/>).

3. The new definition of pharmacist in the Shortage Occupations List does not include pre-registration pharmacists? Are they included or excluded?

The MAC answer. We have not specifically mentioned them, but it seems sensible that pre-registration pharmacists should be included (as long as they are employed within the NHS or work within a hospital)...

3. Consultation with pharmacy bodies

The Migration Advisory Committee's Secretariat has advised the Society that some pharmacy organisations were consulted before its decision was made, but the Society was not consulted.

4. Concerns and next steps

The Society is concerned that the MAC made its decision to remove community pharmacy from the Shortage Occupations List without adequate consultation and without sufficient information about community pharmacy. The Society has made a submission to the MAC to feed into its next review of the Shortage Occupations List in September. The Society has also worked with pharmacy organisations, including the Company Chemists' Association and National Pharmacy Association, to ensure they are aware of the MAC's data requirements for demonstrating an occupational shortage. They have submitted evidence to the MAC also.

5. Further guidance

Members are advised to contact the UK Borders Agency direct for further guidance.

W: <http://www.ukba.homeoffice.gov.uk/> [main page]

W: <http://www.ukba.homeoffice.gov.uk/contact/contactspage/> [Please note that waiting times for call centre operators are very long]

This briefing note will be updated in September 2009.

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