

Contractors who migrated to UK can stay, court says

Highly skilled contractors who came to the UK under the previous visa programme, and who were attacked under the new points-based system, can stay in the UK, a judge ruled on April 8, 2008.

High Court judge Sir George Newman rejected attempts by the Home Office to force some highly skilled migrants who had been living and working in the UK to leave. The Home Office had maintained that these highly skilled migrants didn't qualify under the new immigration law which came into effect last month.

49000 Would Have Been Deported

According to the [Highly Skilled Migrants Programme Forum](#), an organisation set up for those working in the UK, up to 90 per cent of the 49,000 migrants who had set up home in the UK under the scheme faced being deported with their families. These, many of whom work as contractors, will now be allowed to remain.

High Court judge Sir George Newman allowed their challenge and granted them judicial review.

Judge Says Hardship Is Unreasonable

Sir George Newman said: "If the new changes are likely to affect so few a number of people, what interest is there to be served by subjecting a limited number of people to considerable hardship which they would not otherwise have faced?"

Home Office To Appeal

The Home Office had claimed that analysis showed that the test for highly skilled migrants under the previous legislation was not sufficiently rigorous to select those migrants who were making the greatest economic contribution to the UK. It was alleged that some already on the programme, including a number of contractors, were not doing highly skilled work. The Home Office sought to have these migrants reapply for their visas.

The Home Office also claims that the number of migrants affected is "much smaller" than the 49,000 asserted by the Highly Skilled Migrants Programme Forum.

The judge said that it was plain that those already admitted to the UK should not be put to the hardship of reapplication.

A spokesperson for the Forum said: "The UK Government was backing off from the very promises they made to HSMP Immigrants on which they were invited to UK. After the retrospective changes implemented on November 8, people were being asked to re-qualify for their visa extension through an unfair points based system (PBS) rather than being allowed to remain. The initial promise of extension, which was based solely on economic activity, should have been honoured."

The PBS for extension gives more points to professionals below 32 years of age and to those drawing higher salaries, on average above 35,000 pounds per year. It is in contradiction with the fact that 80% of the HSMP holders were above 28 years of age at the time of their initial application.

The Government has announced that it may appeal the ruling.

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Sir George Newman - High Court Judge


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Highly Skilled Migrants Programme Forum

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