

Questions and answers on the Skilled Workers Immigration Act

Skilled workers are already being urgently sought in many operations in the fields of science, technology, mathematics, computing and healthcare. Demographic developments will exacerbate the shortage of skilled workers in the coming years. The Skilled Workers Immigration Act is intended to simplify the immigration of skilled workers into the German labour market. The Skilled Workers Immigration Act will amend a number of laws and regulations, in particular the Residence Act and the Employment Regulation.

When will the Skilled Workers Immigration Act come into force?

The Skilled Workers Immigration Act will come into force on 1 March 2020.

How will the situation improve for employers and foreign workers?

The new law removes a few hurdles on the way to obtaining the necessary residence permit for third country nationals:

Overall, it will be somewhat easier for employers to recruit skilled workers with qualified **vocational training**, i.e. foreign workers who have completed at least two years of vocational training. Until now, it has been necessary for the desired occupation to appear on the so-called positive list as a "shortage occupation". In the past, this often prevented the immigration of qualified skilled workers. The positive list is compiled every six months by the Federal Ministry of Labour and Social Affairs and the Federal Employment Agency on the basis of recorded statistics on (notified) vacancies. A valuation is carried out on the basis of past experience. Only if a need is found to be positive in two successive examinations is a profession included in the positive list. It has therefore not yet been possible to react promptly to an acute shortage of skilled workers. If vacancies were not notified to the locally responsible employment agency in the past, these vacancies could not be taken into account in the statistics and conse-

quently distorted the demand for skilled workers. The restriction to shortage occupations will finally be abolished as of 1 March 2020.

There will be additional relief for **IT career changers**, as there is a particularly high demand for skilled workers in this area. Foreign employees will no longer necessarily have to have a university degree or a vocational qualification. According to the Skilled Workers Immigration Act, "pronounced practical professional experience" is sufficient in exceptional cases. The foreign employee must have at least three years of professional experience, through which he or she has acquired a proven qualification comparable to that of a skilled worker. The three years of professional experience must have been collected within the last seven years.

What is changing in the area of recognition of foreign vocational training?

The recognition of a foreign vocational training was and is a major obstacle on the way to a residence permit, as many countries do not offer dual training.

The Skilled Workers Immigration Act now facilitates the path to recognition. The person from overseas no longer has to navigate his way through the jungle of the competent recognition authority, but can contact the Central Service Centre for Professional Recognition from 1 February 2020. The Central Service Agency has the task of advising foreign nationals who are still in their home country and who are interested in immigrating to Germany on the requirements of a professional recognition procedure in a specific case and to accompany them through the recognition procedure (pilot function).

Also to be welcomed is the newly created residence permit for the purpose of recognition of acquired vocational training for foreign employees whose foreign vocational training is not fully comparable with German vocational training. This, too, will help to ensure that more skilled workers receive a residence permit and remain in Germany for a longer period of time after their vocational training has been fully recognised.

Will the procedure be accelerated for skilled workers?

With some foreign representative offices it is a real problem to get appointments at short notice. Waiting times are currently sometimes six months or even longer. Under the accelerated procedure, there will be processing deadlines within which a decision must be made regarding the application for a national visa with work permit. As a result, the equivalence of the professional qualification must be decided within two months instead of up to three months as a rule, and the preliminary approval of the Federal Employment Agency must be obtained within one week instead of two. The foreign representative office must then schedule an appointment for submitting a visa application within three weeks of receiving the approval of the Aliens Authority. As a rule, the decision on the visa application should then be made within three weeks of the submission of the complete visa application.

The accelerated skilled worker procedure, which will cost EUR 411, should therefore in future enable employers to recruit third-country nationals even in the event of short-term needs.

Are new obligations imposed on the employer?

The Skilled Workers Immigration Act imposes several obligations on the employer. As before, the employer must check whether the foreign employee has the correct residence title. As long as the employer employs the employee, it must also keep a copy of the foreign employee's residence title (in paper form or electronically). A new feature is that in the event of premature termination of employment, the employer must send a notification to the competent Aliens Authority within four weeks of becoming aware of this.