

## **Defra Minister George Eustice MP (Supplementary) (ABR0054)**

At the recent Sub-Committee Oral evidence session, I promised to provide you with information as to whether starting a new Seasonal Agricultural Workers Scheme (SAWS) would require legislation. Work permits and immigration are the remit of the Home Office and they would lead on this work in conjunction with my Department.

Prior to the accession of Bulgaria and Romania to the European Union in 2007, the SAWS allowed for non-EEA nationals to work in agriculture. The relevant legislation for these arrangements was the Immigration Act 1971 and the Immigration Rules made pursuant to it.

Section 3(20) of the 1971 Act provides that Secretary of State shall from time to time lay before Parliament statements of rules as to the practice to be followed in regulating the entry and stay of those subject to control under the Act. Paragraphs 104 to 109 of the Statement of Changes to the Immigration Rules (HC395) laid before Parliament on 23 May 1994 most recently made provision for granting leave to enter to seasonal workers. Those provisions of the Immigration Rules have since been deleted.

From 2007 onwards, the SAWS was closed to non-EEA nationals and open only to nationals of Bulgaria and Romania, as part of the scheme of transitional restrictions on access to the labour market applied to nationals of those countries. The legislative basis on which participation in the SAWS conferred a permission to work was correspondingly changed. Regulation 9(2)(b) of the Accession (Immigration and Worker Authorisation) 2006 made provision to the effect that a Bulgarian or Romanian national holding a seasonal agricultural work card issued under the SAWS, would have authorisation to work under those transitional restrictions for up to 6 months. The primary legislative basis for those regulations was section 2(2) of the European Communities Act 1972.

At the end of 2013, these Regulations were repealed and the SAWS effectively ended. At this point the Treaty on the Accession of Bulgaria and Romania required any labour market restrictions applied to nationals of those countries to be lifted.

The primary legislative powers under which non-EEA nationals are subject to immigration control are, of course, still in force. In principle, the Secretary of State could at any time lay a fresh Statutory Instrument Statement of Changes to the Immigration Rules to admit non-EEA workers under a seasonal worker scheme.

In terms of EU nationals, we are considering carefully options for the new immigration system once the UK exits the EU, and specifically EU nationals' access to the UK's labour market. As we are about to begin negotiations with the EU, it is not appropriate to provide further details at this stage.

**9 April 2017**