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**SMITH
STONE
WALTERS**

UK Immigration Practice

INSIGHT

UK IMMIGRATION NEWS & VIEWS
FROM SMITH STONE WALTERS
WINTER 2016

UK Immigration
Price Tag:
*Higher costs aimed
at reducing skilled
migration*



UK IMMIGRATION PRICE TAG: HIGHER COSTS AIMED AT REDUCING SKILLED MIGRATION



The Government is bent on reducing skilled migration to the UK using price as its main deterrent. If you are an employer who depends on skilled labour from overseas, the latest set of UK immigration changes are about to hit you where it hurts...

The Statement of Changes to the Immigration Rules (HC677) was laid before Parliament on 3 November 2016 and introduced the first of two phases of change to the Tier 2 sponsored workers route. This will impact UK employers enormously as Home Office explanatory memorandum unashamedly specifies that these changes are designed to influence employer behaviour by incentivising businesses to reduce their reliance on migrant workers.

As a result, the minimum level of pay UK businesses will need to budget for when offering work to an overseas national is increasing, despite the lack of evidence suggesting that Tier 2 migrants are undercutting the resident labour market.

TIER 2 (GENERAL)

The minimum salary level for experienced workers moving to the UK has increased to £25,000 from £20,800, with the sting in the tail being confirmation of the Government's intention to increase the threshold even further to £30,000 in April 2017. This two-step jump in the visa category's minimum salary level is significant and will undoubtedly influence employer behaviour in relation to hiring migrant workers. But it is really justifiable?

It would make perfect sense to level the playing field if there was clear evidence to suggest that Tier 2 migrants are undercutting the resident labour market. Earlier this year, however, the Migration Advisory Committee (MAC) could only find evidence of this impacting public sector occupations such as doctors and nurses. Ironically, the government has decreed that private sector businesses will immediately bear the brunt of these salary increases for migrant workers, whilst certain public sector roles are being afforded additional time to adjust to the new salary thresholds.

TIER 2 (INTRA-COMPANY TRANSFER)

Given the Government's belief that raising the cost of recruiting a Tier 2 migrant will reduce UK demand for skilled foreign professionals, it comes as no surprise that they have also fashioned new restrictions applicable to the Tier 2 Intra-company Transfer (ICT) route.

This immigration route is popular with multi-national firms. With over 36,000 entry clearance (out-of-country) visas issued under the Tier 2 ICT route in 2014, the Government has seized on the opportunity to use price as a

way of reducing its attractiveness for UK employers.

Under the new rules, those staff relocating to the UK as short-term intra-company transferees now need to receive a minimum salary of £30,000 per annum (up from £24,800). This narrows the gap between them and long-term transferees who must be paid at least £41,500 per annum to qualify to remain in the UK for over 12 months.

As the vast majority of these visas are granted to allow staff to gain international experience or training rather than to fill UK shortages, many multi-national companies consider the intra-company transfer route a vital necessity to running a globally mobile workforce. Restrictions placed on this scheme must therefore be cautious if the UK's ICT scheme is to remain internationally competitive.

The government could create further uncertainty for businesses in their ability to relocate talent to the UK if it goes too far, along with making UK plc a less attractive investment proposition. Many industry bodies have voiced their concerns in relation to the economic repercussions we could face should the immigration barrier be raised too high.

PRICE HIKES

Perhaps we should be grateful for small mercies, however, as the Tier 2 ICT route is still exempt from the Immigration Health Surcharge (IHS).

The £200 charge, payable per person per valid visa year, is currently levied on all applicants using the Tier 2 (General) immigration route. This autumn, the government was expected to introduce

the same charge for all intra-company transferees. That it has not been included in this latest round of changes is not quite cause to celebrate, however, as it most probably still sits on the Home Office 'to do' list.

Another indirect tax looming large on the government's agenda is the introduction of the Immigration Skills Charge for UK businesses. This levy will catapult the financial burden faced by those employers hiring migrant labour into orbit.

Planned for April 2017, this charge will be levied on UK businesses which employ skilled migrants. At £1,000 per employee per year, it is yet another concept unashamedly designed to slash the number of companies taking on migrant workers.

So long as this government continues to use price as a means to constrain business fuelled immigration, it would be unwise to lock the company chequebook away.

**SMITH
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The final 2016 edition of Insight looks at a range of different UK immigration issues, from the new UK Immigration Rules to our Brexit Immigration Service. For the Tier 2 sponsors out there, our Special Focus section picks out ten 'peace of mind' checks you should conduct on your internal compliance processes.

Finally, Happy Christmas from everyone at Smith Stone Walters and we look forward to serving up more immigration news and support in 2017.

TOP 10 COMPLIANCE CHECKS FOR UK EMPLOYERS

Staying compliant with UK immigration law is a complex and serious business. There are many rules and regulations which UK employers must adhere to if they sponsor non-EEA staff and the consequences of being caught out can be severe.

We have picked out 10 checks for your compliance systems and processes to ensure that they will stand up to a surprise Home Office audit should officials ever come a-knocking.

RTW CHECKS

Regardless of where a new employee comes from, employers should conduct Right to Work Checks (RTW) on all new employees and retain dated copies of each employee's documents, such as passports and other identity information.



VALID LICENCE

All Sponsor Licence holders receive mail alerts from the Home Office in advance of their licence expiry and are offered the chance to extend their licence. If the licence is allowed to expire, you will need to apply for a completely new Sponsor Licence and await a decision from the Home Office. During this time, you will not be allowed to employ any Tier 2 migrant workers.



COMPANY DATA



It is a basic Home Office requirement that your business address and other organisational information is kept up to date on Home Office their records and your sponsor licence. It may sound simple, but that is exactly why this sponsor duty is often overlooked. Any change in these details should be reported to the Home Office within 10 working days of this change occurring.

KEY PERSONNEL



Perhaps your nominated Authorising Officer or Level 1 User has left your employment but failed to update the Sponsor Management System (SMS) with their replacement before they left? This aspect of sponsor licence compliance is easy to miss, but if -key personnel data is found to be out of date by the Home Office you could face licence suspension or worse.

MERGER OR ACQUISITION?



If your organisation has undergone a merger or acquisition, this needs to be reported to the Home Office within 10 working days of it occurring. To ensure that this is reported in time, a process should be in place to ensure that such news is always relayed as soon as possible to those in charge of immigration matters within the organisation.

REPORTING CHANGES



As a sponsor of migrant employees you are obliged to inform the Home Office of any change in a migrant employee's professional circumstance. This can include a promotion, a change in salary, a change in work location, or if their employment is affected by a change of company ownership.

COS ALLOCATION



A Certificate of Sponsorship (CoS) is an essential document for the employment of a migrant worker and a certain number of these are allocated to each employer on a yearly basis according to their resourcing needs. It is becoming harder and harder to receive a high enough allocation of these certificates, however, and sponsors are therefore advised to look at their talent needs as far in advance as possible and to apply in good time should they require a higher (or lower) than normal number of CoS.

LEGAL REP



If your organisation has engaged a legal representative (such as Smith Stone Walters), you should ensure that they are listed on the Sponsor Management System in connection with your licence.

EMPLOYEE DATA



Another duty for the compliant sponsor of Tier 2 migrants is the collection and maintenance of up-to-date contact information for each migrant employee. To ensure that you update these details in a timely fashion, you should conduct regular audits to verify the information on file and clearly communicate to sponsored migrants that they must notify you if anything changes.

ADVERTISING



The Home Office is keen to see that your need for a non-EEA employee is genuine. Sponsors must be able to prove this by retaining documents on file which show that each Resident Labour Market Test (RLMT) is conducted honestly and objectively. Sponsors should consult Appendix D of the Tier 2 sponsor guidance for a full list of possible documents and best practice.



New UK Immigration Rules were announced this autumn and came into effect on 24 November.

The changes touch many visa categories but mainly affect the skilled working route Tier 2 and its subcategories. The new rules make it tougher and more costly for UK employers to recruit members of staff from outside of the European Economic Area (EEA) or to transfer current overseas employees to the UK.

Headline changes for Tier 2 (General)

- The minimum salary requirement for visa applicants of this route has increased from £20,800 to £25,000. New entrants to this category (applicants who are either under 26 years of age, transferring from a Tier 4 visa, or have been hired through a milkround recruitment process) will be exempt from this increase, along with Tier 2 (General) migrants

who are applying to extend their visas and were sponsored before 24 November 2016.

- Applications from UK university graduates who have returned overseas are now given heavier weighting within the Tier 2 (General) monthly allocation limit.

Headline changes for Tier 2 (Intra-company Transfer)

- The minimum salary requirement for the Tier 2 (ICT) subcategory Short Term has increased from £24,800 to £30,000.
- The Tier 2 (ICT) subcategory Skills Transfer has closed to all new applications.
- The Tier 2 (ICT) subcategory Graduate Trainee has reduced its minimum salary requirement from £24,800 to £23,000 and the yearly allowance of Graduate Trainee places a sponsor can use has increased from five to 20.

Other notable changes:

- Nurses will remain on the Shortage Occupations List but a Resident Labour Market Test will now be required before a CoS can be assigned.
- The 28-day grace period for visa holders who have overstayed their leave but who wish to apply to extend their visa is to be abolished and any application for further leave to remain will be refused unless ‘good cause’ is given and it is made within 14 days of the applicant’s leave expiring.

If you have any questions about the recent changes to the UK Immigration Rules please contact Smith Stone Walters on 0208 461 6660 or info@smithstonewalters.com for up to date and friendly advice.



EEA PASSPORT RETURN SERVICE



EEA nationals can now use a new passport return service when applying for proof of their right to live in the UK or their right to reside here permanently.

The new European passport return service for EEA nationals allows those applying for recognition as an EEA QP (qualifying person) or for confirmation of their right to PR (Permanent Residence) in the UK to retain and use their passport or relevant identity documents as desired whilst their application is being processed.

The government has issued a list of 32 local authorities which offer this service across England and 14 London-based authorities, making it easier for EEA nationals to begin the process of confirming their UK status.

“EEA nationals can now use a new passport return service when applying for proof of their right to live in the UK”



LONDON-ONLY VISA SCHEME?



London Chamber of Commerce and Industry (LCCI) has called for a London-only visa scheme in its recent report *Permits, Points and Visas: Securing practical immigration for post-Brexit London*.

The report addresses the post-Brexit treatment of the 771,000 EEA nationals who are currently employed in the UK’s capital, along with the city’s continuing need of migrant workers in the future.

LCCI has put forward a solution in the shape of a London-only visa system and has suggested various

options including a single-issue ‘London Work Visa’ which would grant the holder indefinite leave to remain. It has also called for a ‘Targeted Migration Area’ for the London area to be identified and a Shortage Occupations List specific to London skill gaps to be created.

“It has also called for a Targeted Migration Area”

It is yet to be confirmed whether or not the Major of London, Sadiq Khan, will champion the suggested scheme.

NEW PRIORITY SERVICE FOR TIER 2 SPONSORS

A new priority service has been launched by the Home Office for Tier 2 sponsors which enables the quicker processing of Certificate of Sponsorship allocation requests and change of circumstance applications.

For a fee of £200, the new service will process requests and applications in just five working days and can be used by non-premium Tier 2 and Tier 5 sponsors to:

- apply to change their authorisation officer;
- add a new Level 1 User; and
- add to, or renew an allocation of Certificates of Sponsorship (CoS) request.

OUR NEW YORK OFFICE HAS MOVED!



“The move (...) will help us to provide an even more efficient service to our western clientele.”

SSW’s presence in New York plays a vital role in our global support network of UK immigration specialists and after many years on John Street, our UK Entry Clearance immigration team has moved to a new area of town!

The move brings the team closer to the British Consulate (only 6 blocks away!) and will help us to provide an even more efficient service to our western clientele.

Providing clients with specialist immigration services since 2008, our NYC office began operating from the following new address with effect from 27 October 2016:

733 3rd Avenue, 16th Floor, New York, NY 10017

Please see the reverse of this newsletter for the location and contact details of all Smith Stone Walters’ global offices.



TECH NATION VISA BREAKFAST



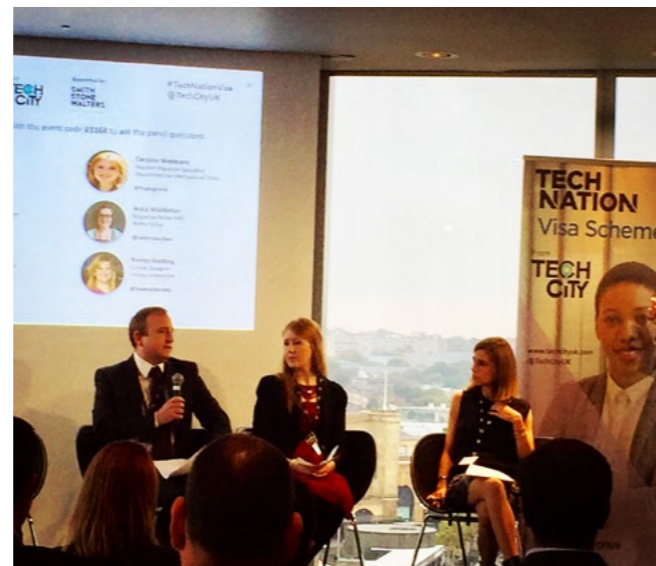
Smith Stone Walters took part in this autumn’s Tech Nation Visa Breakfast, a morning of information on the Tech Nation Visa Scheme for applicants and UK employers.

Head of SSW’s Private Client Team, Anthony Hall, spoke on the relevant visa requirements, with Home Office officials, tech industry leaders and past applicants also taking the floor to give attendees a comprehensive overview of the advantages and difficulties of this visa scheme.

Aimed at digital technology professionals wanting to come to the UK on a Tier 1 Exceptional Talent visa, the Tech Nation Visa Scheme facilitates the endorsement process necessary for acquiring this visa.

SSW is one of the scheme’s two legal representatives.

Are you a digital technology professional of exceptional talent looking to pursue a career in the UK? If so, contact us for visa advice and support!



A FABULOUS FUNDRAISING FINISH!



The CSR year ended with a bang here at SSW, with total fundraising efforts adding up to a whopping £8,706!

We would like to thank the SSW team for its continued dedication to raising funds and awareness for our chosen cause, the Rainbow Trust Children’s Charity, which provides emotional and practical support to families who have a child with a life threatening or terminal illness.

The next fundraising year began this November and the team’s charitable efforts have shown no sign of slowing down! The year kicked off with the in-house ‘Big Hour’ fundraiser consisting of a home-made cake sale, various games and a raffle for two tickets to an international friendly match between England and Spain at Wembley Stadium (provided by Tunbridge Wells FC), whilst SSW’s Digital Marketing & Communications Lead, Lucy Campbell-Woodward, took part in Gate48, the UK’s tallest stair climbing challenge!

Well done team, and keep it coming!

PRESENTING BREXIT, COMPLIANCE AND IMMIGRATION CHANGE

During these uncertain times, we aim to keep clients up to date on all things UK immigration.

To this end, SSW immigration experts presented on the most pressing industry topics at our recent UK Immigration Seminar including the latest compliance information, tips and advice on how best to create compliant internal processes and systems and this autumn's changes to the Immigration Rules.

Of course, we could not host a UK immigration event without addressing the topic of Brexit. Head of Policy & Knowledge Management at Smith Stone Walters, Naomi Hanrahan-Soar, spoke about the potential effects of Brexit on the EEA workforce, as well as how this could change the current system for non-EEA nationals.

Thank you to everyone who attended this event and helped to make it an informative and enjoyable afternoon.



NEW BREXIT IMMIGRATION SERVICE



SSW has introduced a new service which enables clients to prepare their organisations for the effects of Brexit.

The Brexit Immigration Service is designed for UK organisations of all shapes and sizes who employ foreign EEA nationals and want to ensure to the best of their ability the security of this workforce in the face of Brexit. The content and structure of the service is tailored to the needs and wishes of each client and is intended to provide peace of mind.

See the Focus section at the back of this issue for more information or contact us on 0208 461 6660 or info@smithstonewalters.com



WHAT OUR CLIENTS SAY ABOUT US...

The SSW team always aims to give its clients the best service possible.

As a result of its proactive attitude towards client service, SSW regularly achieves high quality feedback.



'I find that they (the SSW team) go over and above to ensure that customers are satisfied and kept well-informed of all steps of visa application processes. Their knowledge is second to none, particularly given the ever-changing immigration laws.'
S.A., investment banking firm

'Excellent all around, thanks for your hard work.'
M.S., software and services company

'Jack and the USA team were extremely responsive and helpful during this process. Everyone I have dealt with have been excellent. Thank you!'
K.R., global investment bank

'Susan was wonderful, as were the rest of the team. Thank you very much for the excellent support!'
M.H., investment and financial services firm

'Liesel is fabulous! :)'
F.L., private client

'Rachana (SSW Mumbai) handled my entire immigration process very professionally. She really ensured it worth every penny working with Smith Stone Walters, it was a pleasure working with you.'
H.R., telecommunications and networking firm

'Brilliant service from start to finish from Tess in Hong Kong'
D.L., home improvement retailer

'Richard is a true expert on the UK immigration along with his first-class customer service that guaranteed a completely hassle-free application'
X.S., global investment bank

'Phill Allcorn's help, responsiveness, and clear communication exceeded all expectations'
C.B., multinational networking and telecommunications firm

WOW! Thank you to all SSW staff for making such outstanding customer feedback happen.

‘There has been no change to the rights and status of EU nationals in the UK, and UK nationals in the EU, as a result of the referendum.’

– UK Government July 2016

Despite this comforting sentiment it is still not clear how the government plans to protect the rights of EEA nationals in the UK against the realities of an exit from the EU. In this edition of Focus, we look at what questions UK employers should be asking themselves regarding their EEA workforce.

Should we identify our EEA workers and their UK statuses?

Yes! Whilst it is still uncertain whether EEA nationals will retain the right to work freely in the UK, we would advise employers to identify the number of EEA employees they have in the UK, highlight their immigration status, and note the length of time which they have spent in the UK.

In the current climate, it would also be wise to audit your UK workforce abroad and ensure that any UK nationals which you employ in an EEA country feel supported.

Please note that it continues to be a legal requirement for UK employers to conduct ‘right to work’ checks on all employees before they begin employment. This will not change in the event of Brexit and employers should continue to conduct this verification on all potential staff in accordance with the law on preventing illegal working.

What message should we send to our EEA workforce?

Whilst the UK remains a member of the European Union, EEA nationals and their family members can continue to exercise their treaty rights by living and working in the UK. It is important that EEA employees receive this message so that they feel reassured and supported by their employer. One-to-one conversations can be a good way of ensuring

that this message has been received and understood. Employers can also share information with their EEA staff regarding their available immigration options and how these could protect their UK status. Law on preventing illegal working.

How can an EEA national reaffirm their current UK status?

Apply for a Registration Certificate – If an EEA national has

- been in the UK for a period of less than five years, they can apply for a registration certificate which will certify that they are in the UK in accordance with their treaty rights. This will be valid for five years from its date of issue and should allow them to remain in the UK following an official withdrawal from the EU.

Confirm their right to Permanent Residence – If an EEA

- national has been resident in the UK for five or more continuous years, they can apply for confirmation of their permanent residency rights. This will demonstrate that they have the right to live permanently in the UK, regardless of any post-exit removal of free movement rights.

Apply for British Citizenship – If they already possess

- permanent residency they could be eligible to apply for British Citizenship. This would grant them all the rights of a UK citizen and allow them to apply for a British passport.

Each of these options would require the EEA national to make a formal application to the Home Office and to pay the associated Home Office fees. Employers are best advised to consider and communicate the level of financial assistance and legal support (if any) they intend to afford to their EEA workers. Equally, it would be advisable that similar considerations are made for any UK workforce in employment abroad (within the EU).



How can Smith Stone Walters help you and your EEA staff?

Smith Stone Walters offers clients the chance to prepare their organisations for the effects of Brexit with our comprehensive Brexit Immigration Service.

The Brexit Immigration Service audits the UK immigration status of your EEA workforce, allowing you to plan and budget for the forthcoming developments. We will also speak directly to your employees to provide support and advice on their available options.

Who is the Brexit Immigration Service for?

The Brexit Immigration service is designed for all UK organisations that employ EEA nationals and want to ensure, to the best of their ability, the security of this workforce in the face of Brexit. The content and structure of this service is tailored to the needs and wishes of each client and is intended to reassure both the employer and its EEA employees.

What exactly does the Brexit Immigration Service entail?

The Brexit Team from Smith Stone Walters will present on the current state of Brexit and UK immigration law, along with the implications for EEA employees. By interacting with your staff on a one to one basis, we shall also outline the UK immigration options available to them and their families.

Why should you use this service?

Employers in the UK should be planning as best they can for post-Brexit policy and this is exactly what the Brexit Immigration Service aims to do. This service grants UK employers the knowledge and confidence to prepare their human resources for Brexit, both operationally and financially. It will also reassure many members of your workforce and let them know that you are on their side.

Moving people to the UK is our business. It is what we do best.
www.smithstonewalters.com



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