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**SMITH  
STONE  
WALTERS**

UK Immigration Practice

# INSIGHT

UK IMMIGRATION NEWS & VIEWS  
FROM SMITH STONE WALTERS  
WINTER 2013

*China on  
the move*

T1 航站楼  
Terminal 1

国际出发  
International departure



T2 航站楼  
Terminal 2

国内出发  
Domestic terminal



## STIRRING UP A HORNET'S NEST

Criticism of the Home Office's tough stance towards immigration seems to be reaching an all-time high.

Following on from their insensitive use of mobile billboard ads in and around London telling illegal immigrants to "Go home or face arrest", the Home Office has gained further unwanted publicity of late.

### CHINATOWN

In a protest against what business owners describe as "discriminatory" raids by the UK Border Agency (UKBA), a number of restaurateurs based in Chinatown, a famous London tourist destination, went on strike. According to organisers, it is not uncommon for Chinatown to experience unannounced UKBA raids on a weekly basis, even though many of the raids do not result in arrests.

Critics of the UKBA action claim that the government chooses to crack down on catering businesses since they are an easy target. Businesses currently face fines of £10,000 per illegal worker; in

many instances, these fines lead to the businesses being forced to close. With the government intent on amending existing legislation in April 2014 in order to increase the maximum civil penalty from £10,000 to £20,000, many more firms could face financial ruin.

According to Home Office figures, over 8,100 civil penalty notices were issued to employers between February 2008 and the end of 2012. Whilst this equates to a net recoverable sum of £57.5 million, over £17 million had to be written off, mainly because companies chose to cease trading rather than pay the outstanding civil penalty debt.

### NEW BILL

Whilst employers may feel they are being targeted by the UKBA, the government's latest Immigration Bill has its sights firmly set on restricting migrant access to a number of services and forcing private landlords to undertake immigration status checks on their tenants.

The Bill, which has had its second reading in the House of Commons but has yet to be debated by MPs, would require private landlords and agents to request that prospective tenants provide evidence of their entitlement to be in the UK. If a prospective tenant could not produce satisfactory evidence, the landlord would be expected to refuse the application or, like current employers, be liable to a hefty civil penalty. The amount of the fine has not been set, although a consultation document proposed an amount between £1000 and £3000.

The prospect of having to undertake immigration checks on potential tenants is unlikely to sit comfortably with many landlords. If eligibility is difficult to determine, this process could easily lead to discrimination during the selection process.

Other controversial measures detailed in the Bill include the requirement for temporary migrants staying in the UK for more than 6 months to pay a health surcharge before they are allowed entry. Those who pay the

surcharge will be able to access free NHS care to the same extent as a permanent resident, subject to some exceptions for particularly expensive discretionary treatments.

### HOSTILE ENVIRONMENT?

Immigration Minister Mark Harper has said, "The Immigration Bill will stop migrants using public services to which they are not entitled, reduce the pull factors which encourage people to come to the UK and make it easier to remove people who should not be here." However, opponents fear that the Bill goes too far and creates a hostile environment for all overseas nationals residing in the UK. Either way, one thing is certain: The government's continued tough stance on immigration and, in particular, illegal immigration will create further controversy and more unwanted publicity.

### SMITH STONE WALTERS

In this final 2013 edition of Insight, you will find news and updates on key UK immigration issues, including a focus on certain amendments in the Immigration Rules that were introduced at the beginning of October. These amendments impact on all Tiers of the points-based system as well as visitors.

*"The Immigration Bill will stop migrants using public services to which they are not entitled, reduce the pull factors which encourage people to come to the UK and make it easier to remove people who should not be here."*

## CHINA ON THE MOVE

£

### SPENDING SPREE

**\$102 BILLION**

The international tourism spending of Chinese consumers for 2012 reached US\$102 billion. A 40% rise from 2011.

*Did you know?*

### BORDER CROSSINGS



In 2012, 83.2 million border-crossings from Mainland China recorded. An increase of 20% compared to 2011.



**20% INCREASE**

In global border-crossings in 2012.

### FLYING OUTBOUND

**83 MILLION**

The number of outbound Chinese tourists in 2012.



**No 1**

### LEADING THE WAY

China overtook Germany and the USA in terms of numbers of travels and spending and is the new number one global outbound tourism source market.



### INCREASING TOURISM

**x2**

Chinese tourism from China to all global destinations has more than doubled since 2007.

**185,000**

Chinese tourists came to the UK in 2012.

**25%**

Increase in number of Chinese tourists travelling to the UK over this period.



**x8**

*By contrast*

France now receives almost eight times more visitors from China than the UK.

## 'SUPER PRIORITY' VISA SERVICE FOR CHINESE VISITORS

During a recent visit to Beijing, Chancellor of the Exchequer George Osborne announced measures to simplify the visa application process for Chinese visitors.

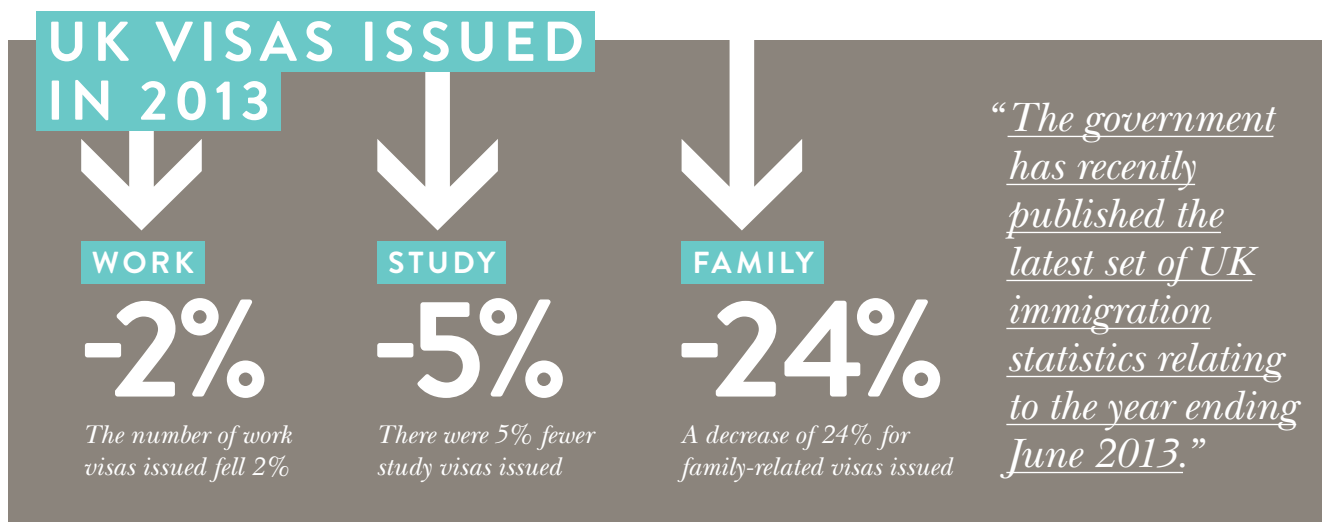
The new procedures include several changes:

- A new 24-hour 'super priority' visa service available from 2014
- The opportunity for Chinese nationals visiting both Europe & the UK to forego submitting a separate UK visa application if they book with selected Chinese travel agents
- An expansion of the existing VIP mobile visa service now operating in Beijing and Shanghai

With more than 210,000 visas issued to Chinese nationals last year and over 600 Chinese businesses already maintaining a presence in the UK, Mr Osborne recognises the economic value of Chinese-led investment. His government, therefore, is hoping these small changes will persuade more Chinese companies to invest in the UK and also lessen the burden of paperwork placed on would-be Chinese tourists seeking entry to this country.

*Are you looking to visit the UK from China? Speak to our Hong Kong based team for specialist UK immigration advice.*





## LATEST UK IMMIGRATION STATISTICS



The government has recently published the latest set of UK immigration statistics relating to the year ending June 2013. During this period, the total number of (pre-entry) visas issued fell 4% on the previous year to 501,840. This figure excludes visas issued to visitors or passengers transiting the UK. The statistics relating to the key routes of entry are detailed below:

### WORK

After the closure of the Tier 1 General and Tier 1 Post Study categories, the number of work visas issued fell 2% to 144,554. Within this figure, sponsored Tier 2 visa holders accounted for 43,485. The majority of those 43,485 certificates used related to migrant workers either entering the Information and Communication sector (18,304) or carrying out a Professional, Scientific or Technical role (7,668). Those overseas nationals entering the UK to work within the Financial and Insurance sector amounted to 5,551.

To view the latest immigration statistics from the Home Office please visit:  
[www.gov.uk/government/publications/immigration-statistics-april-to-june-2013/immigration-statistics-april-to-june-2013#work-1](http://www.gov.uk/government/publications/immigration-statistics-april-to-june-2013/immigration-statistics-april-to-june-2013#work-1)

In contrast, the number of work-related extensions increased by 9% to 145,855 in the last year. This is largely explained by the high number of skilled workers (Tier 2) present in the United Kingdom who had already received the initial approval to remain for up to 3 years, and then sought to extend their stay in order to continue in their role.

### STUDY

There were 5% fewer study visas issued (totalling 204,469, including dependants), mainly explained by a smaller number of Pakistani and Indian students seeking entry to the United Kingdom. Conversely, there was an increase in the number of study visas issued for other nationals, including Chinese and Libyans.

### FAMILY

There was a decrease of 24% for family-related visas issued (totalling 34,201) during the year.

In the year ending December 2005, 17% of all family-related visas were refused. That percentage increased to 22% in the year ending September 2012. Since then, the number refused leapt to 38% in the year ending June 2013. This marked increase coincides with stricter changes made to the Family Immigration Rules, which apply to applications made on or after 9 July 2012.

## LONDON - NEW POLICE REGISTRATION REQUIREMENT

Migrants whose visa conditions require them to register with the police must do so within 7 days of arrival in the UK. For London residents, this registration takes place at the Overseas Visitors Records Office, Brandon House, Ground Floor, 180, Borough High Street, London, SE1 1LH.

Since 2 September 2013, any persons now wishing to register with the metropolitan police must complete an on-line registration pro-forma and attach two passport-sized photographs, a copy of the visa page of their passport and their biometric residence permit together with the £34 fee before being allowed to register.

Compliance with these procedures is very important. Failure to report to the police in a timely manner may result in a breach of the conditions of their stay.

For further advice in relation to your police registration requirements, please contact Smith Stone Walters today.



## TIER 1 (INVESTOR) CATEGORY REVIEW



The Home Office Minister has requested that the Migration Advisory Committee (MAC) publish a Call for Evidence in relation to the economic impact of the Tier 1 (Investor) route. The MAC has been asked to consider the following request and report back by February 2014:

*“At present, the minimum level of investment for the Investor category is £1 million but accelerated settlement status can be achieved by investing either £5 million or £10 million. Migrants may use money loaned to them by UK banks when making their investment. The MAC is asked to consider whether the investment thresholds are appropriate to deliver significant economic benefits for the UK, in particular the minimum £1 million threshold.”*

To assist in forming their response, the MAC has recently canvassed opinions on the Investor category from stakeholders and interested parties.

## IRIS RECOGNITION IMMIGRATION SYSTEM (IRIS) - NOW CLOSED

The Home Office has now officially decommissioned its Iris Recognition Immigration System. Under the scheme, an eligible person who pre-registered his or her iris patterns was able to use automated barriers to pass through immigration control on arrival in the United Kingdom.

A new registered traveller scheme is being piloted, aiming to improve the way regular visitors can pass through the UK border.

It will initially be available at Heathrow and Gatwick airports. Passengers who previously registered to use IRIS will be eligible to apply for the new scheme.

*“A new registered traveller scheme is being piloted, aiming to improve the way regular visitors can pass through the UK border.”*



## GOVERNMENT CONTEMPLATES OFFERING VIP IMMIGRATION SERVICE

A discrete trial whereby a few high-valued overseas nationals benefit from bespoke immigration services has recently been piloted by the Home Office.

In an effort to support 'UK Business PLC' in remaining competitive in the increasingly global recruitment market, the UK Visas and Immigration service is looking at the possibility of offering an exclusive concierge service to top business executives whereby their travel plans and visa services (such

as same-day processing) are managed by a dedicated account manager at no extra cost.

Since the introduction of UK Visas and Immigration last March, Home Secretary Theresa May has promised 'to continue to listen and respond to the needs of high-value and high-priority businesses' and to 'deliver excellent customer service.' Given the limited scope of this service offering, time will tell if this latest idea will ever get off the ground.



## UPDATED EMPLOYERS' GUIDE

The Home Office has circulated a new, updated version of their 'full guide for employers on preventing illegal working in the UK' which replaces the previous version published in May 2012.

The main changes include:

- The restrictions on Bulgarian and Romanian nationals ending on 31 December 2013;

- Restrictions on Croatian nationals, which came into force on 1 July 2013; and
- Information on their fast payment option for paying civil penalties.

The new guide is available from your Smith Stone Walters advisor or direct from the Home Office's website: [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk)

## SSW LOVES HONG KONG

As Prince Charles once said, "Hong Kong has created one of the most successful societies on Earth." Smith Stone Walters echoes that view and loves having a dedicated team of UK immigration specialists based on the island.

Our multi-lingual Hong Kong team, run by Heidi Frances, provides outstanding support to assignees (and their families) looking to transfer to the United Kingdom from China and the Far East. In the last six months, this team has successfully supported over 200 individuals secure visas to the UK.

As our clients say: Having actual UK immigration specialists based in this region is a priceless commodity to UK-bound employees.



## SMITH STONE WALTERS IN CHARITY BAKE-OFF

Corporate social responsibility goes hand in hand with our core values and our vision of success. That is why Smith Stone Walters is proud to be supporting Rainbow Trust Children's Charity by engaging in a wide range of fund-raising activities throughout 2013/14.

The charity provides practical and emotional support to families when a child has a life threatening or terminal illness, and The Big Hour is Rainbow Trust's biggest annual fundraising and awareness event. In support of this event, the staff of Smith Stone Walters used the extra

hour when the clocks went back to raise funds by running our own in-house bake off. Aside from a readymade excuse to eat far too many delicious cakes we raised an impressive £337.36 for the charity. Well done team!

*"Smith Stone Walters is proud to be supporting Rainbow Trust Children's Charity by engaging in a wide range of fund-raising activities throughout 2013/14."*



## WHAT OUR CLIENTS SAY ABOUT US

*Only the highest regards... Jack (SSW USA) was of great help this year. Tomoko and Richard (SSW UK) helped me last year and they were also great. Excellent guidance; very satisfied with the work. A.N., Investment bank*

*No question was too trivial – I felt supported all the way through the process. R.B., Global component distributor*

*Very efficient, professional service. N.S., Leading UK charity*

*Wonderful experience with professional and courteous service. Thank you very much. D.S., Investment bank*

*Simply amazing customer service! B.S., Technology firm*

*Fantastic service! Thanks especially to Susan Scott for her prompt feedback and readiness to help. J.B., Private client*

*I was very satisfied with your level of service. Specifically, I would like to mention Sydney Smelt (SSW HK), who provided help and support promptly and with the utmost level of professionalism. Y.G., Global internet-related corporation*





*This month's focus is on the Statement of Changes HC 628 in the Immigration Rules, which took effect from 1 October 2013.*

The Minister of State for Immigration (Mark Harper) formed the Statement of Changes in the Immigration Rules with a view to offering greater flexibility for businesses and workers. With various tweaks being made to the general visitor route as well as to the Points-Based System, employers are advised to take note of the following changes:

## Tier 1

- The UKBA now applies a “genuine test” or assessment of earnings in the assessment to Tier 1 General extension applications. This move away from the highly prescriptive Points-Based Rules allows caseworkers to assess and question whether earnings have been received through genuine employment activity with a genuine employer. Where abuse is suspected, the Home Office now have greater scope to test supporting evidence and request additional information and/or documents from the applicant.

## Tier 2 (Skilled Workers)

- Previously, Tier 2 (Intra-Company Transfer) workers applying to extend their leave in the category beyond three years in total were required to meet the English language requirement unless they earned £152,100 or more. From 1 October, the English language requirement was removed for these applicants; as this category does not lead to the migrant worker gaining UK permanent residence, the need for integration in the UK is considered less relevant.
- Tier 1 (Graduate Entrepreneur) has been included on the list of categories eligible to switch into the Tier 2 (General) category under the post-study work provisions. Employers do not have to carry out a resident labour market test when employing such individuals and may pay them the “new entrant”, as opposed to “experienced”, salary rates as outlined in the UK Border Agency’s Codes of Practice.
- Tier 2 (General) migrants earning £152,100 or more are now permitted to own more than 10% shares in the Sponsor’s business.

## Tier 5 (Students)

- Tier 4 graduates who have completed their degree in the UK will be allowed to switch into a 12-month supernumerary internship under the Tier 5 government-authorized exchange category, provided it directly relates to their degree. Employers should note that the stay is restricted to twelve months and the role must be supernumerary. Switching into Tier 2 at the end of the internship is not permitted.

## Visitors

- General visitors and business visitors are now permitted to undertake short-term studies (up to 30 days of recreational, English language or academic study) in the UK as long as the study is incidental to the visit.
- The range of permissible activities that a Business Visitor can undertake in the UK has been widened.
- Internal auditors from global corporations undertaking short internal audits are permitted to undertake this task as business visitors, rather than applying under the Tier 2 Intra-Company Transfer route.

- Business visitors can now undertake corporate training that relates to their existing employment overseas. The new provision does, however, indicate that the training must be delivered by a UK company that is neither part of the visitor’s employer’s corporate group, nor whose main activity is the provision of training.

## Dependants

- With some exceptions, migrants are now able to switch their immigration status to a Points-Based System dependant from within the UK. Previous rules required any prospective Points-Based System dependant to return to their home country to apply for Entry Clearance.

## Indefinite Leave to Remain

- A Tier 2 Sponsor must now have (or have applied to renew) a valid Tier 2 Sponsor licence in order to endorse a Tier 2 migrant’s Indefinite Leave to Remain application.
- From 28 October 2013, it has become a requirement for those applying for Indefinite Leave to Remain in the UK to demonstrate their English language skills and to have passed the “Life in the UK” test. Certain nationals will be exempt from English language requirement, such as Australians and Americans.

## Smith Stone Walters

As these latest changes prove, the UK immigration rules continue to be modified with an increasing level of frequency. Should you have any queries regarding how these alterations could affect your migrant population, please do not hesitate to contact a Smith Stone Walters Advisor today.

*Moving people to the UK is our business. It is what we do best.*  
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