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**SMITH  
STONE  
WALTERS**

UK Immigration Practice

# INSIGHT

UK IMMIGRATION NEWS & VIEWS  
FROM SMITH STONE WALTERS  
SUMMER 2013

*The new  
measures  
to tackle  
immigration*





*“Private and social landlords....to check the immigration status of prospective tenants”*

## LANDLORDS SET TO POLICE ILLEGAL IMMIGRATION?



State Opening  
of Parliament  
10 May 2013

With the recent State Opening of Parliament marking the formal start of the parliamentary year, the Queen's Speech set out the government's agenda for the coming session.

Although the speech set out plans to cap bills for social care and introduce a flat-rate pension, it was the new measures to tackle immigration that dominated. The Queen announced, *'The bill will ensure that this country attracts people who will contribute and deter those who will not'* before outlining proposals put forward to allow foreign criminals and illegal migrants to be deported more easily, and to increase the fines imposed on businesses that choose to give jobs to illegal immigrants.

In addition, the government intends to restrict the rights of EEA jobseekers to access certain benefits, to be introduced in January 2014. New residency tests for social housing will also be introduced to prioritise those with a well-established local residency and demonstrable local associations. Both

of these measures are designed to address the removal of transitional controls on the movement of migrants from Romania and Bulgaria, which expire at the end of 2013.

Somewhat bizarrely, the bill also included new measures that will see both private and social landlords being required by law to check the immigration status of prospective tenants in a similar way to the existing checks currently made by all UK employers.

### RED TAPE

Since the government does not maintain a register of all private landlords in this country, questions are already being asked as to whether this proposal can ever work in practice and how it can ever be policed effectively. With the government committed to reducing the burden of red tape, it is a little ironic that they should choose to place new regulatory requirements on landlords that, in essence, will not have a bearing on reducing the number of illegal migrants in this country.

Although the implementation is not yet clear, Shadow Home Secretary Yvette Cooper has already told the Commons that the landlord scheme would be unworkable. If the government really expects private landlords to either take on some aspects of the role of the Border Agency or face a hefty fine, this could just be political posturing rather than a truly well-thought-through policy. Either way, it is apparent that the coalition's tough stance on immigration shows no sign of waning.



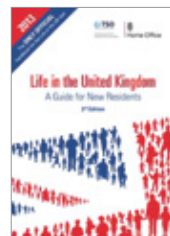
# ENGLISH LANGUAGE REQUIREMENT RAISED

From October 2013, individuals seeking British naturalisation or UK settlement will be required to fulfil more rigorous English language requirements before they will be eligible to apply. From this date, applicants will be required to:

- pass the Life in the UK test; and
- have a speaking and listening qualification in English at B1 CEFR or higher, or its equivalent.

The knowledge of language and life requirement for naturalisation as a British citizen will be the same as that for settlement.

Those under the age of 18 or over the age of 65 will be exempt from the language requirements and, in line with current practice, those with physical or mental conditions which severely restrict their ability to learn English will continue to be excused.



*“Those under the age of 18 or over the age of 65 will be exempt from the language requirements”*



The Home Office has identified a unit cost attributed to processing passengers at the border.

In 2011–12, the cost of each passenger was £2.90. This was a decrease in cost of 11 per cent since 2010–11.

Unit costing takes all the costs incurred by the UK Border Agency, allocates them to activities, and calculates the cost per unit of each activity. Costs allocated include staff and management costs, any building rental and running costs, and a share of the costs of support functions, such as HR, IT and finance.

In contrast, the cost of each decision for all permanent and temporary migration applications filed during 2011–12 was £223.

The cost per decision increased slightly from the previous year, although the total number of migration applications received in the United Kingdom in 2011–12 was 12 per cent lower than in 2010–11.

Latest provisional data show that there was a net flow of 163,000 migrants to the UK in the year ending June 2012, which is significantly lower than the net flow of 247,000 in the year ending June 2011.

In the year ending June 2012, 515,000 people immigrated to the UK, which is significantly lower than the 589,000 who migrated the previous year. This decrease has caused the fall in net migration.

The number of citizens immigrating to the UK from EU accession countries (EU8\*\*) decreased significantly. In the year ending June 2012, 62,000 EU8 citizens migrated to UK, which is lower than 86,000 the previous year and the lowest since 2004.

*“In the year ending June 2012, 515,000 people immigrated to the UK”*

\*\*EU8 represents Poland, Hungary, the Czech Republic, Slovenia, Slovakia, Estonia, Lithuania and Latvia.



# REBRAND FOR SMITH STONE WALTERS

In this summer edition of Insight, we are pleased to formally unveil an exciting development for Smith Stone Walters. As you have (hopefully!) already spotted, we are presently in the process of rebranding, and you will become more familiar with the refreshed Smith Stone Walters brand in the coming months.

Throughout this process we will continue to focus on our key priority, which is to deliver first rate UK immigration services to our clients from anywhere in the world.

Over the last 12 years, we have brought together an exceptional team of multilingual UK immigration specialists which is larger now than it has ever been. This team will continue to deliver to you the best solutions and knowledge available, and the most reliable and dependable quality service, consistently and at a competitive cost.

Your business is important to us and we look forward to continuing a long and mutually successful business partnership with you under the new-look Smith Stone Walters brand.





## SMITH STONE WALTERS IS STILL GROWING



### *A new office in the heart of the City of London*

We are delighted to announce that Smith Stone Walters has expanded its UK presence by opening a new office in the heart of the City of London, just a hop, skip and a jump from Bank tube station.

*'Smith Stone Walters is a dynamic and progressive firm that practices exclusively in the area of UK immigration,' said David Hugkulstone, director. 'We truly believe in what we do and we enjoy helping UK-based companies compete and grow within the*

*parameters of UK-based immigration law. Our newest location allows us to better serve our growing markets and maintain a level of unparalleled support client support.'*

Our dedicated teams in London, New York, Hong Kong and Mumbai look forward to serving you and your UK-bound employees with the same quality and service you have come to expect from us.

In order to celebrate properly we will be holding a party in the City of London in the near future. Please stay tuned for more details.

## WHAT OUR CLIENTS SAY ABOUT US



*Always at the end of a telephone or email to answer any immigration queries that we have. Prompt and very efficient service.*

*J.K., Maritime Shipping Company*

*My husband and I adopted our daughter from the US and used SSW to help obtain her visa to the UK. Yvonne (SSW USA) was not only professional and extremely helpful, she was alive to the very emotional situation we were in and was understanding and comforting. I would not hesitate to recommend SSW and specifically Yvonne to any other couple found in a similar situation, and have in fact referred her to Heartfelt Adoption Agency as a resource for couples in need of visa services. Best Regards and Many Thanks.*

*L.K., Private Client*

*The service provided by SSW and its team was simply "excellent". My firm received a very high standard of service and I will have no hesitation in recommending SSW's services to my business colleagues and associates in future.*

*P.H., Consulting Company*

*Absolutely great to work with Smith Stone Walters. Prior to my company hiring them I was very nervous about the paperwork for my transfer to the UK actually getting completed to the specifications required. All of that apprehension disappeared from the first contact with SSW. The requirements and timeline became instantly clear.*

*A.C., Trading Company*

*The visa process was MUCH faster than I had been originally told by my company. I was pleasantly surprised at how quickly it was completed and that all I had to do was respond with the proper documents in a timely fashion!*

*C.F., Chemical Company*

*I received an excellent service from your team. Better still, on arrival at the Sheffield immigration centre a member of your team was available to guide me through the whole process, providing information at every stage. So I was never left in the dark.*

*J.O., Oil Industry*

*If your company is thinking of engaging Smith Stone Walters for UK immigration support, why not ask our existing clients what they think of us?*

## LATEST CHANGES

## NEW CREDIBILITY INTERVIEWS FOR STUDENTS

Last month, the UK Home Office began calling certain Tier 4 student visa applicants for interview at their local visa application centre. The interview focuses on applicants' reasons for coming to the UK and is being used in conjunction with the submitted visa application to determine if a visa for entry to the UK can be awarded.

With the number of overseas students falling to 197,000 in the 12 months prior to June 2012, from 239,000 the previous year, this measure will be seen as another aid to weed out bogus student applications. Last year's figures show sponsored visa applications rose 3% in the university sector, but fell 62%, 69% and 14% for further education, English language schools and independent schools respectively.



### *Fact:*

*The number of students entering the UK from China (PRC) rose by over 15% to 78,715 in 2011-12. However, the number entering the UK from India fell by almost 25% to 29,900 during the same period.*



## UK BORDER AGENCY IN REORGANISATION EXERCISE



## FAMILY VISITOR RULE CHANGE

The Home Office is removing the full right of appeal for applicants who were refused leave to enter the UK as a family visitor. The change is expected to come into force on or soon after 25 June and will apply to anybody who applies to enter the UK to visit a family member on or after the implementation date. From this date,

*“UK Border Agency’s  
functions are now  
returning to the  
Home Office”*

On 1 April 2013 the UK Border Agency was split into two separate units within the Home Office: a visa and immigration service and an immigration law enforcement division.

Ironically, the UK Border Agency’s functions are now returning to the Home Office where, in 2006, the then home secretary had declared the Home Office’s immigration directorate as being not fit for purpose. This led to the UKBA being created in 2008 by merging the Border and Immigration Agency, UK visas and sections of HMRC. By creating two entities instead of one, current UKBA chief executive Rob Whiteman hoped to create ‘first, a high-volume service that makes high-quality decisions about who comes here, with a culture of customer satisfaction for businessmen and visitors who want to come here legally; and second, an organisation that has law enforcement at its heart and gets tough on those who break our immigration laws’.

We shall need to wait and see if this reorganisation will have any real effect on Home Office staff morale and the overall performance of the immigration department.

applicants who are refused will need to re-apply, addressing the reasons for refusal instead of appealing.

*For full support and guidance in filing family visa applications, please contact one of Smith Stone Walters’s offices today.*

## FOCUS

*To give clients clear and concise information every quarter we focus on a key issue of immigration law. Our focus for this quarter falls upon... Tier 2 (General) Conditions of stay*

The Tier 2 (General) visa category is a way of entry to the UK for foreign nationals who have been offered a skilled job to fill a gap in the workforce that cannot be filled by a settled worker. The job must be at or above NQF level 6 and the migrant must be paid at the appropriate salary as set out in the guidance.

Upon visa approval, a migrant worker can initially enter the UK under Tier 2 (General) for a maximum of three years plus one month. Subsequent permission can usually be sought to remain for a further three years.





# TIER 2 (GENERAL) CONDITIONS OF STAY

*“It can be a complex process to ensure compliance with sponsorship duties and procedures”*



## *What can the worker do whilst in the UK under a T2 (General) visa?*

Whilst in the UK under Tier 2 (General) the migrant workers:

- must not own more than 10 per cent of their sponsor’s (i.e. employer’s) shares; and
- will have no access to state benefits or other public funds.

The only work that they are permitted to carry out is as described in their certificate of sponsorship, working for their sponsor. Supplementary work is also permissible so long as the position is in the same sector and at the same professional level. The supplementary employment must take place outside their normal working hours for their main job for a maximum of 20 hours per week. Aside from unpaid voluntary work, any other type of paid additional work (known as ‘secondary employment’) must be authorised.

## *What happens if their main job or working hours change significantly?*

Their sponsors must apply to the authorities for permission to change their employee’s employment if:

- there is a change to their core duties, which means that their job is now in a different Standard Occupational Classification (SOC) code;
- their salary reduces from the level indicated on their current certificate of sponsorship (unless this is caused by a temporary companywide reduction in working hours and salaries or by maternity leave).

## *Starting a new job*

If a migrant sponsored under Tier 2 wants to leave a job and work for a different employer, the migrant must make a new application for permission to stay and work in the UK, and must have a certificate of sponsorship from the new employer. The only exception to this is where the migrant will be continuing in the same job for a new employer following a takeover, merger or de-merger.

A significant change of circumstances such as this would need to be reported by the employer to the immigration authorities within 10 working days of the event in question.

## *How can Smith Stone Walters help us?*

It can be a complex process to ensure compliance with sponsorship duties and procedures, particularly in changeable environments or when managing the demands of a large workforce.

By partnering with Smith Stone Walters, your company will benefit from our dedicated compliance solutions, including:

- streamlined process management services;
- complimentary analysis and audit of work authorisation procedures and policies to ensure compliance with local regulations; and
- on-site management support in securing the necessary capture of every employee’s obligatory work authorisation documentation.

*If these services are of interest to you, please contact Smith Stone Walters today for a fee quotation. See overleaf for details...*



## CONTACT US

**NEW YORK**

Smith Stone Walters  
111 John Street, Suite 800  
New York  
NY 10038

*Tel*  
+1 646 378 4406

*Fax*  
+1 646 378 4409

*Email*  
[usa@smithstonewalters.com](mailto:usa@smithstonewalters.com)

**LONDON**

Smith Stone Walters Ltd  
1-7 King Street  
London  
EC2V 8AU

*Tel*  
+44 (20) 8461 6660

*Fax*  
+44 (20) 8461 6661

*Email*  
[info@smithstonewalters.com](mailto:info@smithstonewalters.com)

**MUMBAI**

Smith Stone Walters (INDIA)  
The Capital, 701,  
Plot No. C-70, G Block,  
Bandra Kurla Complex, Bandra (E),  
Mumbai 400051, India

*Tel*  
(+91) 22 6712 8433

*Fax*  
(+91) 22 6712 8999

*Email*  
[info.india@smithstonewalters.com](mailto:info.india@smithstonewalters.com)

**HONG KONG**

Smith Stone Walters HK  
Level 21, The Center  
99 Queen's Road Central  
Hong Kong

*Tel*  
(+852) 3478 3757

*Fax*  
(+852) 3478 3880

*Email*  
[info.hk.smithstonewalters.com](mailto:info.hk.smithstonewalters.com)

[www.smithstonewalters.com](http://www.smithstonewalters.com)

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