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**SMITH  
STONE  
WALTERS**

UK Immigration Practice

# INSIGHT

UK IMMIGRATION NEWS & VIEWS  
FROM SMITH STONE WALTERS  
SPRING 2015

*More change  
ahead of the  
election for  
employers and  
workers alike*



# MORE CHANGE AHEAD OF ELECTION

*As we are about to enter the period of time immediately before an election when specific restrictions on the activity of civil servants are in place, there is no room for complacency. Between now and 7 May, there is still time for some significant immigration reforms to be introduced that affect both migrants and employers.*

18 months ago, the former Immigration Minister, Mark Harper, outlined the government's aim to introduce a new health surcharge. The provision was subsequently included in last year's 2014 Immigration Act and is expected to come into effect next month.

As detailed in this edition of Insight, the surcharge will take the shape of an upfront payment payable by all non-EEA citizens applying for a Tier 1, Tier 2 (excluding Intra-Company Transfers), Tier 4, or Tier 5 visa longer than six months in duration.

## MIGRANTS MUST PAY MORE TO USE NHS, SAY MINISTERS

Most foreign migrants and overseas visitors can currently receive NHS care immediately or soon after arrival in the UK and are expected to repay the cost of most procedures afterwards. In reality, however, only a fraction of the chargeable procedures performed every year are recovered due to the time and cost involved in tracking down patients.

In a fresh crackdown on so-called 'health tourism', the government intends to reverse this trend by ensuring that the NHS is better able to identify patients and effectively recover costs from them directly or via other EU member states.

Questions remain over whether the NHS has the infrastructure and resources necessary to administer a cost-effective charging system. However, the £200 annual health levy for temporary migrants who stay more than six months is definitely a step in the right direction for the government.

## PAY UP OR STAY AWAY

Simply put, if any migrant intending to legitimately work or study in this country refuses to pay the up front surcharge, they will not be allowed to enter the UK. With a family of four having to stump up £4,000 to satisfy this new requirement in order to secure a set of five-year visas, it seems that Britain is Open for Business – but definitely at a price.

## BIOMETRIC RESIDENCE PERMIT (BRP) ROLLOUT

Another key change being introduced at this time is the extension of Biometric Resident Permits (BRPs) to those applying for UK visas from abroad.

The new regulations will see all non-EEA visa applicants applying to reside in the UK for longer than six months issued with a BRP (similar in size to a credit card) as proof of their UK immigration status, instead of a visa affixed to their travel document.

Given that the same biometric documents are already issued 'in-country' to those migrants applying to extend or alter their existing immigration status, it is logical to extend the scheme overseas. As there is no facility to issue BRPs outside of the United Kingdom, however, the issuing of these cards presents a logistical problem for both the migrant applicant and their employer.

## GO, QUEUE, AND COLLECT

We Britons love to queue, and this is exactly what future migrants will be asked to do upon arrival in the UK. Instead of being in possession of their BRP ahead of travelling to the UK, migrants will receive an interim 30-day short-term travel vignette. Upon their arrival in the UK, and at great inconvenience to many, each migrant will be required to visit a designated UK-based Post Office to collect their biometric card.

Employers are also set to be inconvenienced by the introduction of this two-part scheme. For those migrant workers who commence employment immediately upon arrival in the UK but ahead of receiving their BRP, secondary Right to Work checks will need to be completed by their employers. Changes to current on boarding and Right to Work checking processes will therefore be necessary to ensure an employer holds the necessary authority to continue to employ a migrant worker.

The 'inconvenience factor' of this new measure for both migrants and employers appears to be lost on the government. Instead, the authorities are quick to point out that the introduction of overseas BRP applications will not lead to an increase in visa filing fees whilst conveniently forgetting to mention that a general revision of all visa application fees will take place next month.

Another change for migrants and employers to factor in ahead of the impending election.

## SMITH STONE WALTERS

*Having published Insight, our quarterly look at UK Immigration news since 2001, this edition will be the final copy we send to print. In response to a recent readership survey undertaken, future editions of Insight will be available in soft copy and downloadable from our website.*



# CALLING ALL SPONSORS!

*The annual renewal of  
unrestricted CoS allocations is  
fast approaching – don't  
get caught out!*



If you are a sponsor of skilled foreign workers, now is the time to renew your allocation of unrestricted Certificates of Sponsorship (CoS). Current CoS allocations will expire on 6 April this year and any unused certificates currently allocated to a sponsor will be withdrawn from use.

In order to receive a new allocation for 2015–2016, a renewal request should be filed without further delay. As a sponsor, you should renew your annual CoS allocation if:

- Over the coming year, you intend to sponsor migrants from inside the UK who are new to your organisation;
- You maintain a sponsor licence covering Tier 2 Intra-Company Transfer (ICT) and intend to temporarily transfer existing staff to a UK office from overseas;
- You currently employ migrant staff who will be required to extend their sponsored permission to work in the UK within the next 12 months in order to continue in their employment with you.

Although sponsors are able to submit their renewal beyond April's deadline, UKVI will not guarantee a processing time for considering new allocation requests after this date. Delaying the submission of your renewal request is likely to cause much disruption to both the sponsor and assignee.

## *How can we renew our CoS allocation?*

The renewal of your CoS allocation must be made using the Sponsorship Management System (SMS). After logging in, users should go to the 'Request renewal for annual CoS/CAS allocations' to register their request.

## *"The renewal of your CoS allocation must be made using the Sponsorship Management System"*

## *How many CoS should we request?*

Sponsors can use the 'Licence summary' tab in SMS to find out how many CoS were assigned to its organisation over the previous allocation year. This information, alongside any business aims and projection for the coming year, can be used to guide the sponsor as to the allocation they should request for the next 12 months.

## *What does the automatic renewal of CoS allocations mean for us?*

This year will see many sponsors receiving an automatic CoS allocation renewal based upon the number of CoS used from the previous year.

## *"it is therefore all the more important to ensure you seek to renew your allocation manually"*

Unfortunately, UKVI has not provided a list of which sponsors will receive automatic renewals, and it is therefore all the more important to ensure you seek to renew your allocation manually.

## *How can I find out if our allocation has been automatically renewed?*

If your sponsor licence account has been adjusted to receive an automatic CoS allocation renewal for 2015/2016, you should receive correspondence confirming this adjustment.

You can also refer to the 'Request renewal of annual CoS/CAS allocations' tab under the 'Licence summary, applications and services' page in SMS. If the words 'automatically renewed' are displayed, then a sponsor may be confident that their CoS allocation for the next allocation year has been renewed automatically.

If the words 'add a request' are displayed, your CoS allocation for the coming year is not subject to automatic renewal and your request must be made manually as normal.

## *Smith Stone Walters recommends...*

...that all sponsors consider the potential number of CoS required over the forthcoming year and file a request for a new allocation ahead of the April deadline.

If this matter is not actioned ahead of time, companies could find themselves with a zero allocation of certificates and unable to sponsor migrant employees until such time as the renewal request has been filed and subsequently considered by the authorities.



## NEW 2015–2016 HOME OFFICE IMMIGRATION AND NATIONALITY FEES

UK



The Home Office has published indicative fees for all UK immigration and nationality applications made after April 2015. These fees are subject to parliamentary approval and contain some notable increases on last year's charges.

Whilst sponsor licence application fees are to remain the same, existing sponsors should be aware that the cost of allocating a Certificate of Sponsorship (CoS) is expected to increase from £184 to £199. Fees for Tier 2 visa applications are also set to change, and by way of example, the following increases are likely to apply from April 2015:

- Entry clearance visa costs for Tier 2 General, ICT long-term staff for a period of three years or less increasing from £514 to £564

- Entry clearance visa costs for Tier 2 general, ICT long-term staff for a period of more than three years increasing from £1,028 to £1,128

Those applying under Tier 1 visa categories could also face increased fees. Markedly, the cost of applying for a Tier 1 investor visa from overseas is likely to increase from £874 to £1,500. A similar hike in charges is also planned to hit migrants applying for indefinite leave to remain in the UK, with the charge increasing by £411 to £1,500. Premium Services will be similarly affected and those applicants intending to use the Priority Visa Service can expect a 20% increase in fees (from £300 last year to £360). Super Premium Service customers requiring a bespoke application service will need to pay £7,000 (previously £6,000) for the privilege.

*“These fees are subject to parliamentary approval and contain some notable increases on last year’s charges.”*

*The full list of indicative fees for the year 2015/2016 can be found at [www.gov.uk](http://www.gov.uk)*



*“Delhi will be one of the first British posts to trial this new process”*

## BRPS FOR OVERSEAS VISA APPLICANTS



The Home Office is rolling out Biometric Resident Permits (BRPs) to those applying for UK visas from abroad. The new regulations will see all non-EEA visa applicants (applying to reside in the UK for longer than six months) issued with a BRP as proof of their UK immigration status instead of a visa affixed to their travel document.

These biometric documents (similar in size to a credit card) are already issued ‘in-country’ to those migrants applying to extend or alter their existing immigration status. This next move will see the same process being adopted ‘out of country’ to those non-EEA nationals applying from overseas to enter the United Kingdom for longer than six months.

The initiative will be rolled out in phases country by country over a four month period starting in March 2015. We are advised that Delhi will be one of the first British posts to trial this new process.

*How will this work in practice?*

The UK visa application process will remain much the same except that the applicant will receive a 30-day short-term travel vignette, which enables them to travel to the UK and subsequently collect their BRP within 10 days of their arrival in the UK.

*How will the roll-out affect employers?*

Right to work checks will most likely be affected. We anticipate the possible need for employers to undertake a secondary right to work check for those migrant workers who commence employment immediately upon arrival in the UK ahead of receiving their BRP.

## ATTENTION!! TIER 1 (GENERAL) VISA HOLDERS

As of 6 April 2015, the opportunity to gain an extension under the Tier 1 (General) category will be permanently removed.

Following the closure of this route to new applicants in 2011, the government is sticking to its guns concerning the final deadline for existing migrants with a Tier 1 (General) visa to file for an extension under this immigration category.

Once the extension route has closed, Tier 1 (General) visa holders will have no option but to either ‘switch’ visa category prior to the expiry of their existing conditions or apply for UK permanent residency.

Should you have any concerns over April's extension deadline, please consult your Smith Stone Walters Immigration Advisor regarding your options.

*“the opportunity to gain an extension under the Tier 1 (General) category will be permanently removed”*



## 2014 SSW CLIENT SATISFACTION

Our client satisfaction survey provides us with invaluable insight into the experience we offer those applying for a UK visa with our help, and more often than not, the results are worth shouting about!

2014 saw a total of 1,072 entries into the SSW client satisfaction survey with some extremely pleasing results. Clients were asked to respond to the following questions and statements with 'Highly Satisfied', 'Satisfied', or 'Dissatisfied'.

*The results for 2014 were as follows:*

**01** Overall how satisfied were you with the level of service you received from SSW?



**89% HIGHLY SATISFIED**

11% SATISFIED

0% DISSATISFIED

**02** You were contacted promptly by SSW upon initiation of your Case?



**88.6% HIGHLY SATISFIED**

11% SATISFIED

0.4% DISSATISFIED

**03** You were provided with full guidance on the procedure and timescales?



**89% HIGHLY SATISFIED**

10% SATISFIED

1% DISSATISFIED

**04** You were updated on developments as they occurred?

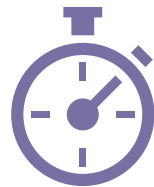


**86.3% HIGHLY SATISFIED**

13.2% SATISFIED

0.5% DISSATISFIED

**05** Your queries were dealt with quickly?



**90% HIGHLY SATISFIED**

9.3% SATISFIED

0.7% DISSATISFIED

## SSW UK IMMIGRATION SEMINAR

*A great success!*

In a world where things move quickly, SSW aims to keep you informed. We were therefore delighted to host a free seminar focussing on recent UK immigration hot topics!

Held in February at the stunning venue of One Moorgate Place, and with speakers from both SSW and the Home Office, the seminar was met with much enthusiasm and was soon oversubscribed!

Attended by representatives from over 30 sponsor organisations, the seminar focussed on recent changes to corporate immigration

compliance and the implications of the impending NHS surcharge.

*“Attended by representatives from over 30 sponsor organisations”*

This event was a must for all employers wishing to learn about how these changes to key areas of HR practise will impact upon their employment strategy.

Many thanks to all those who attended and helped to make this event a great success.

We look forward to seeing you at the next one!



## SSW AT EXPAT EXHIBITION



Smith Stone Walters was pleased to be among 40 exhibitors at this year's American in Britain Annual Expat Exhibition in London. Free to attend and in its 19th year, the event took place in February at Hotel Russell, London.

Consisting of a fantastic programme of seminars along with a range of exhibiting relocation services, the event was well attended and the SSW immigration advisors enjoyed being on hand to discuss all things UK immigration related.

*Excellent work guys!*



# FOCUS

*The Immigration Act 2014 gave the UK Government the power to introduce an immigration health surcharge. As a consequence, many people who need immigration permission to come to or stay in the UK are to be charged an additional sum as part of their UK visa application in order to receive free healthcare under the National Health Service.*

## *What is the background to this?*

The Department of Health is currently working to improve the systems for charging overseas visitors and migrants for their NHS healthcare in England and increase the extent of the services for which they can charge.

One element of this programme includes the introduction of a new mandatory health surcharge for temporary migrants from outside the European Economic Area (non-EEA) which is being managed by the Home Office.

Those who pay the surcharge (or are exempt from paying it) will then be able to access the NHS on the same basis as a UK resident and for the duration of their leave to remain in the UK.

## *When will this new legislation be introduced?*

The draft Immigration Health Charge Order 2015 has been laid before Parliament for approval. The NHS health surcharge for visa applications is therefore expected to come into effect in April 2015.

Both overseas nationals aiming to relocate to the UK and employers who intend to employ migrant staff should consider taking steps to prepare for this.

## NHS HEALTH SURCHARGE



### *Who will it affect?*

The annual health surcharge will be applicable to all non-EEA citizens who are applying for a Tier 1, Tier 2 (excluding Intra-Company Transfers), Tier 4, or Tier 5 visa of more than six months' duration.

The charge will not act retrospectively and will only apply to new visa applications at entry clearance or extension of visas within the UK.

Once the application has been approved, the migrant will be issued a Biometric Residence Permit confirming both their UK immigration conditions and 'pre-registered' status with the NHS.

### *Who is exempt from paying the immigration health surcharge?*

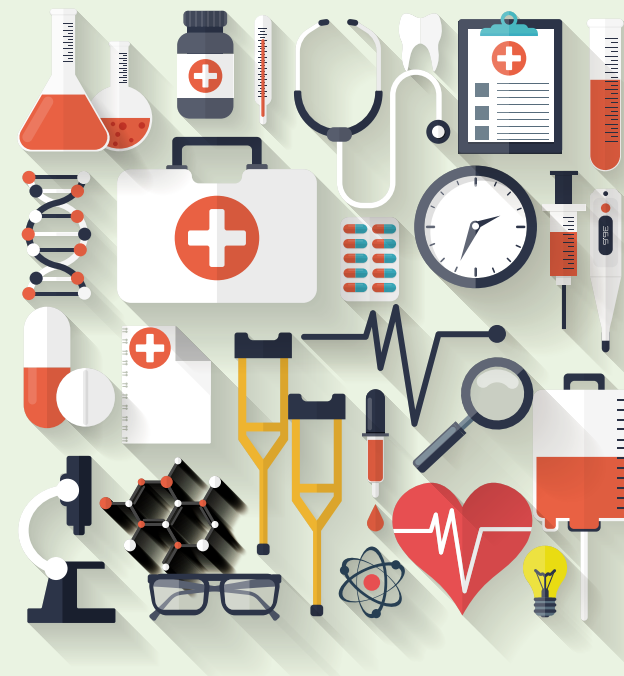
The key exemptions include:

- Those who apply for entry clearance or leave to remain under the Rules as a Tier 2 Intra-company migrant;
- Migrants seeking to enter the United Kingdom for 6 months or less (i.e., visitors);
- Nationals of Australia and New Zealand (in-line with reciprocal healthcare agreements held with both countries);
- Those who apply for entry clearance or leave to remain pursuant to an EU obligation (i.e. the family members of EEA nationals).

### *What is the cost?*

The proposed surcharge is £200 per annum per migrant (with a lesser charge of £150 applicable to international students).

The total amount payable will depend on the length of the visa being applied for. Where the maximum period of leave to enter or remain would be less than a year, or includes part of a year, the amount payable for that part is either half of the specified annual amount for a period of up to six months or the specified annual amount if the part of the year is more than six months.



The surcharge will also apply to any dependants' applications. For example, an applicant with a dependant spouse wishing to stay in the UK for five years should expect to pay £2,000 in NHS surcharges, excluding visa application and maintenance requirement costs. This amount will be payable in full with the visa application fee.

Unfortunately, opting out of the NHS surcharge is not possible for those migrants wishing to make their own private provision for healthcare. Where possible, employers who are considering employing non-EEA migrants in particular roles may want to consider expediting visa applications prior to April 2015, in order to avoid the significant additional cost of the surcharge being incurred.

### *What happens if the charge is not paid or is cancelled?*

This will very much depend on the stage an application has reached.

If the application has been made but the charge has not been paid, the visa officer should contact the applicant to request payment. If payment is not made within seven working days of the date of request, the entry clearance application will be refused.

In the event that leave has been granted but the payment is then cancelled or reclaimed by the applicant, entry clearance will be revoked and leave to remain will be cancelled.

*“The total amount payable will depend on the length of the visa being applied for”*

### *What is the feeling amongst UK employers in respect of this charge?*

Whilst many employers financially support the recruitment of migrant staff by picking up associated costs, Smith Stone Walters has observed a growing concern amongst its clients regarding the considerable cost implications of paying the surcharge on behalf of employees, particularly when these costs are added to the costs of visas and overheads.

The proposed visa filing fee for a five year Tier 2 General visa from April 2015 is already set to increase to £1,128 per applicant. Therefore, a family of four relocating to the UK via this employer-led sponsored route can expect to pay upfront filing fees amounting to £8,512 (inclusive of the new NHS surcharge).

### *Are there any possible tax implications?*

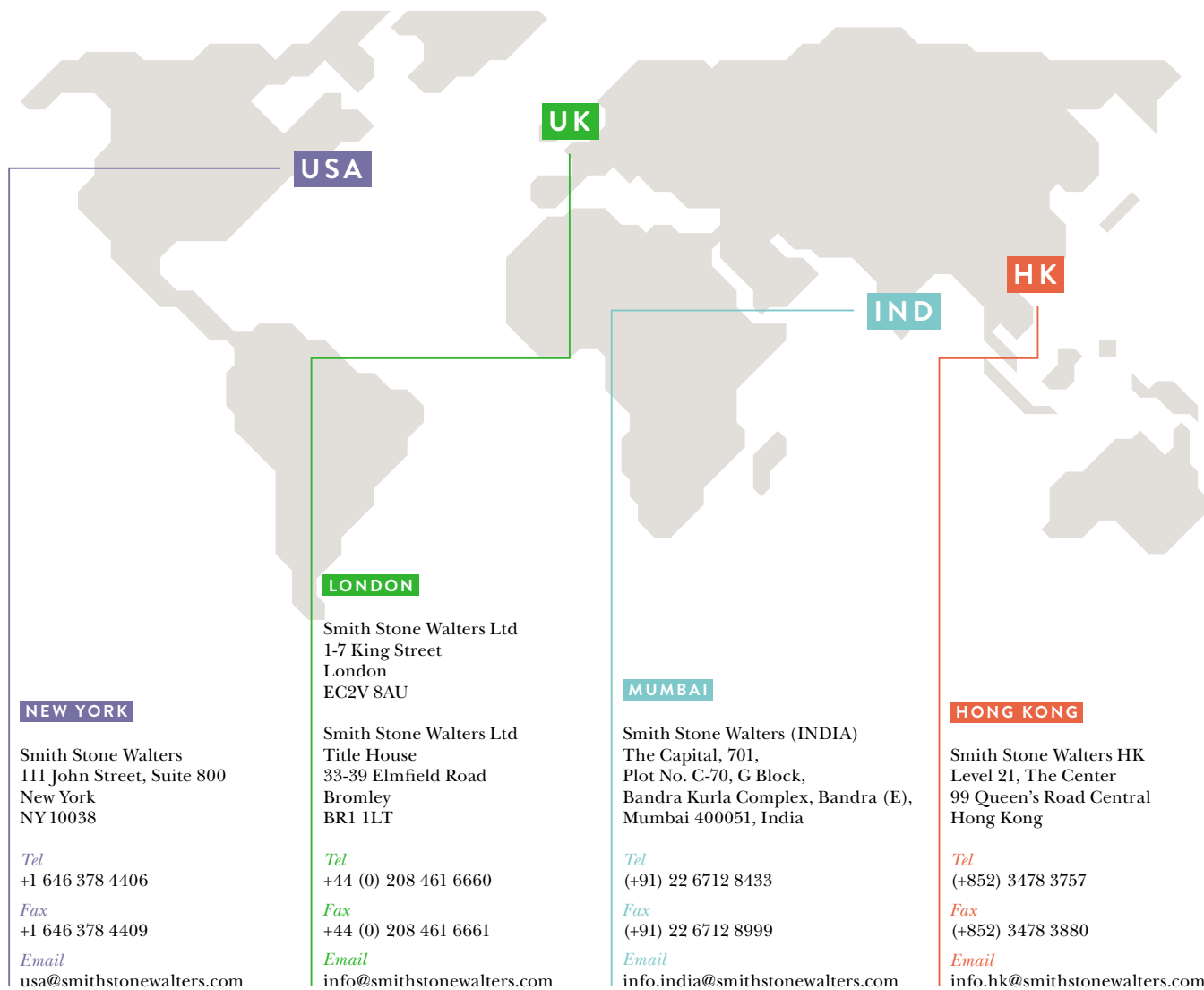
Yes. We would advise all employers to ensure that appropriate tax advice is obtained if they decide to include these payments and other similar payments into their employment 'package'.

Potentially, if an employer were to pay the surcharge, this would result in tax on the employee as well as national insurance liabilities and additional compliance for the employer.

### *Where can I gain further advice on the provisions set out in the Immigration Act 2014?*

The staff at Smith Stone Walters are specialists in advising UK businesses and individual migrants in all aspects of UK immigration law. Should you have any further queries regarding this subject, do not hesitate to contact Smith Stone Walters today.

## CONTACT US



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

This publication is not meant to be used as a substitute for proper professional advice based on the facts of a particular transaction as it is not intended to be a complete coverage of the subject. Smith Stone Walters Limited accepts no liability for any action taken based on the contents of this publication

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