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**SMITH
STONE
WALTERS**

UK Immigration Practice

INSIGHT

UK IMMIGRATION NEWS & VIEWS
FROM SMITH STONE WALTERS
SUMMER 2015

*How far will
the Tories go
to 'control'
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T COUNTRY CONTROL

HOW FAR WILL THE TORIES GO
TO 'CONTROL' IMMIGRATION?



With the government's language shifting in recent months from managing migration to controlling immigration, many expect the Conservatives to impose stiffer sanctions on migrants and their sponsors over the coming months.



REFORM SINCE 2010

The Conservatives have managed to oversee significant immigration reform over the past few years, despite being somewhat shackled in a coalition with the Liberal Democrats.

They stripped more than 850 UK colleges of their rights to sponsor foreign students, made it harder for foreign spouses to join their partners in the UK and impeded migrants in acquiring bank accounts and driving licences. Numerous other key changes were passed through parliament via the Immigration Act 2014, including the introduction of new landlord checks to prevent illegal immigrants from renting private accommodation.

These measures, as well as others introduced during their last term in office, contributed to a 13% reduction in non-EU migration to the UK. The Tories will now aim to reduce this figure further whilst avoiding an actual numerical target this time around.

Since Mr Cameron has no influence over the number of EU migrants and refugees seeking asylum in this country, his former target of cutting annual net migration to tens of thousands has now been downgraded to an 'ambition'. In its place the Conservative Party has revised its immigration approach to focus on controlling immigration by way of continued welfare reform and the introduction of increased enforcement measures.

MANIFESTO PLANS

The Conservative Party manifesto outlines plans to oversee the following changes during the next five years:

- Negotiating new rules with the EU, so that people will have to be earning in the UK for four years before being able to claim social benefits;

- Removing the ability of EU jobseekers to claim any jobseekers' benefits and require those jobseekers who have not secured a job within six months of entering to leave the UK;
- Introducing tougher requirements for non-EU spouses to join EU citizens by introducing a minimum income threshold and English language testing;
- Reforming the student visa system further and clamping down on 'satellite campus' openings in London by universities located elsewhere;
- Maintaining the cap on the level of skilled economic migration from outside the EU at 20,700 during the next Parliament; and
- Introducing greater sanctions for those businesses and colleges which fail to ensure that migrants comply with the terms of their visa.

Given the nature of these measures and the fact that the manifesto makes little mention of attracting highly skilled professionals or academics from overseas, living and working in the United Kingdom looks set to become a lot more challenging for many (if not all) migrants seeking to reside here.

A BALANCED APPROACH?

Clearly, the introduction of tough restrictions and increased enforcement measures will play a part in reducing immigration to the UK, but such an approach needs to be balanced.

In order for the UK economy to continue to grow, foreign students need to feel valued and encouraged to choose UK institutions as their primary place of learning. Overseas business leaders and entrepreneurs need to believe they will be given the opportunity to establish commercial activities in the UK, grow their businesses and boost our economy.

Families need to retain the right to be reunited and reside together, regardless of their level of income or savings.

The introduction of increased enforcement measures should therefore not be underestimated. If the Conservative plan is to suppress every aspect of migration by introducing a raft of new enforcement measures and directives to quell the potential numbers of migrants, then there is a potential to overstep the mark and damage the UK's economy and reputation.

It is easily done. Latest figures from the Higher Education Statistics Agency (HESA) show an alarming 25% reduction in the number of Indian students coming to the UK whilst many of us have not forgotten the distasteful mobile billboard campaign telling illegal migrants to 'Go home or face arrest' seen on our London streets in 2013.

Let's hope this particular pilot scheme, thought up by the Conservatives whilst in coalition, is not revived this time around.

SMITH STONE WALTERS

In this edition of Insight, you will find a number of interesting articles relating to UK immigration.

Our Focus section concentrates on new changes implemented to the Tier 2 sponsorship scheme and is a must-read for all sponsor licence holders. We also find space to celebrate a great night at the recent Re:locate Awards evening where the Smith Stone Walters team came away with yet another award. This time we were recognised for Excellence in Employee & Family Support – well done team SSW! Until the next time, have a great summer.

UK MIGRATION IN NUMBERS, 2014

Here, we take a brief look at migration to and from the UK over the past year, making use of the latest Home Office immigration statistics. All data shown here relates to the year ending September 2014 unless otherwise stated.

110,1 MILLION

JOURNEYS were made to the UK in 2014. A large proportion of these were made by non-EEA nationals, the highest number of which were completed by citizens of the United States, followed by Australian and Canadian nationals.

31,168

EMPLOYERS were registered to sponsor migrant employees as of June 15th 2014. This represents a 14% increase on 2013.

91,000

DEPENDENTS arrived in the UK to accompany or join their loved ones. This is a significant increase from 66,000 the previous year.

641,000

People **IMMIGRATED** to the UK in 2014. Of these, 45% were non-EU citizens and 13% were British citizens returning from overseas.

284,000

People immigrated to the UK for **WORK**. This is a significant increase of 70,000 on last year's figure and was largely attributed to a 15% increase in successful visa applications by highly-skilled foreign workers.

34,713

FAMILY VISAS were issued in the year ending March 2015. This represents a decrease of 1% on the previous year's total.

323,000

People **EMIGRATED** from the UK in 2014. Of these emigrants, around 43% were British nationals.

Most of the visas granted were allocated to workers in the Information and Communication, the Professional, Scientific and Technical, and the Financial and Insurance Activities sectors

46,000

ROMANIAN AND BULGARIAN citizens have made their way to the UK over the course of 2014, doubling the number of EU2 entrants from the previous year of 23,000. An estimated 76% of these entrants into the UK came here for work-related reasons.

193,000

STUDENTS immigrated to the UK to complete formal study, of these 72% came from outside the EEA and of these, two-thirds are Asian citizens.





IS YOUR BUSINESS BRP-READY?

The Home Office is currently busy replacing the traditional in-passport visa stamps with Biometric Residence Permits (or BRPs) as the main evidence of migrant immigration status in the UK, for all successful UK visa applicants from outside of the EEA.

About the size of a credit card, these BRPs will be available for applicants to collect from a designated Post Office up to 10 days after they arrive in the UK and will display their name and personal details, along with their immigration status.

Sponsors should be warned that the introduction of BRPs for all successful overseas UK visa applications may mean that two right to work checks will be necessary, as some migrants may be required to begin work before they are able to attend a Post Office to collect their BRP.

We therefore advise employers to prepare themselves ahead of time by ensuring that the appropriate right to work checks are conducted. The Home Office has stated that, should a migrant need to begin work before being able to pick up their

BRP from their designated Post Office, employers should refer to the short-term travel vignette in the migrant's passport as evidence of their right to work in the UK.

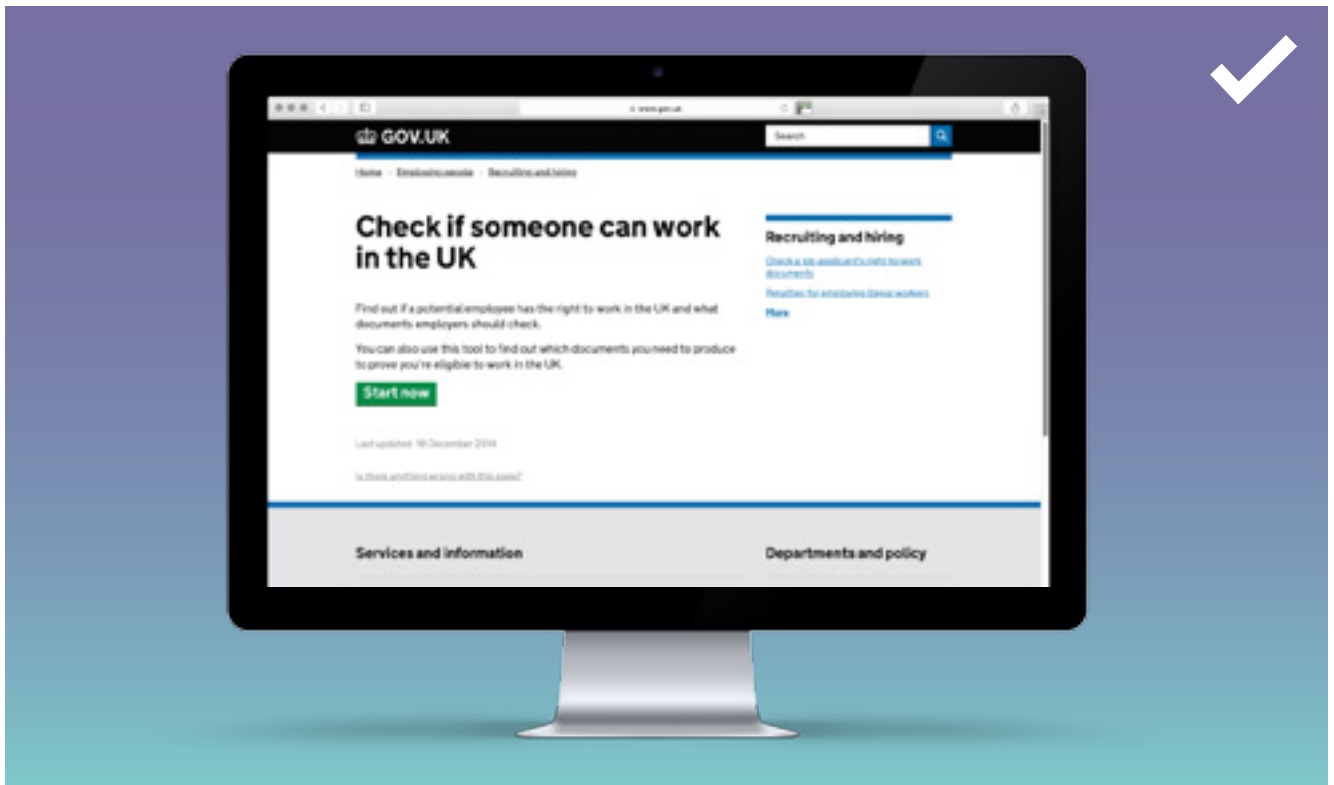
In these cases, the sponsor will need to take care that a second right to work check is conducted before this vignette expires, or when the employee is able to produce their BRP.

The scheme is being rolled out across the globe in stages over the course of 2015, with applicants from Pakistan being the first to have received a BRP instead of a visa stamp affixed to their passport from 1 March this year.

Since then, the issuance of BRPs has been extended to a further 67 countries worldwide, with some of the most recent additions including India, China, North Korea, Malaysia, Canada, Egypt, Japan and the USA. The Home Office plans to introduce the final phase of the scheme on 4 July, which means that successful applicants from all remaining countries worldwide will be issued with a BRP before the end of 2015.

“In these cases, the sponsor will need to take care that a second right to work check is conducted before this vignette expires, or when the employee is able to produce their BRP.”





RIGHT TO WORK CHECKS – NOW ONLINE!

The Home Office has recently launched a new online tool with a view to making your job as a sponsor that little bit easier.

The new online tool, which facilitates the fundamentally important Right to Work Checks for new employees, be they from overseas or around the corner, is now available on the GOV.UK website and has been announced in the most recent version of the Tier 2 & 5 Sponsor Guidance.

The tool highlights which documents employers need to be checking and what information they should be looking for in order to ascertain whether a potential employee has the right to work in the UK.

Equally, prospective employees can also use the service to find out exactly which documents they will need to produce on their first day of work in order to prove their status as eligible to work in the UK.

<https://www.gov.uk/legal-right-work-uk>

“The new online tool [...] is now available on the GOV.UK website and has been announced in the most recent version of the Tier 2 & 5 Sponsor Guidance.”

SSW GOES THE EXTRA MILE!

We are halfway through the Corporate Social Responsibility year here at SSW and fundraising activities are in full swing.

Most recently, Account Manager Richard Hall took on the challenge of the Brighton Marathon. Richard overcame the warm running conditions to complete his first ever marathon in just four hours, ten minutes and fifty-five seconds, managing to raise over £500 for the Rainbow Trust Children's Charity.

Adding to in-house efforts, Tunbridge Wells Football Club welcomed SSW and the Rainbow Trust Children's Charity to their fixture against Croydon on 18 April, thanks to the organisational efforts of SSW Account Manager Phill Allcorn.

A great day of family fun in the sun was had by all and despite 'The Wells' being beaten on home turf by four goals to one, a grand total of £318 was raised by a well-spirited crowd. The club is looking forward to welcoming the charity back next season.

"Well done to all those who enrich and support our fundraising efforts and we look forward to announcing the close of our most successful CSR year yet!"



HELLO WASHINGTON D.C.!



Smith Stone Walters is excited to announce that it will be attending and exhibiting at the 2015 AILA Annual Conference on Immigration Law.

Hosted by the American Immigration Lawyers Association (AILA), this premier annual gathering on immigration law will take place between the 17 and 20 June at the Gaylord National Resort & Convention Centre, in Washington D.C. .

SSW will be attending this worthwhile event for the third year in a row and we are looking forward to meeting new people and espying new business opportunities!

*17 – 20 June
Gaylord National Resort
& Convention Centre
Washington D.C.
USA*





SSW AT FEM LONDON ROADSHOW

Smith Stone Walters kick started the summer's activities with an exhibition at the FEM London Roadshow, hosted by the Forum for Expatriate Management.

Taking place at the Business Development Centre in Islington, London, and offering conferences and exhibition stands covering a range of international assignment issues, the event was attended and enjoyed by global mobility professionals from all over the world.

Smith Stone Walters was delighted to exhibit at the one-day event and we were kept busy throughout the day discussing all things UK immigration with visitors to our stand.

WE'RE MOVING...

But don't worry! With our UK offices still to be found in the London Borough of Bromley and the bustling heart of central London, not much has changed.

There are just two new addresses to take note of:

Smith Stone Walters Ltd
12 Masons Avenue
London EC2V 5BT

Smith Stone Walters Ltd
Devonshire House
29-31 Elmfield Road
Bromley BR1 1LT

Come and visit us at our new office locations! (Appointments must be made in advance
+44 (0) 208 461 6660)

WHAT OUR CLIENTS SAY ABOUT US



Here are a few words recently chosen by clients to describe the service they received from Smith Stone Walters:

FANTASTIC
PROFESSIONAL
REACTIVE
EFFICIENT
SUPPORTIVE
MAGIC

Rich and Cami (SSW UK) showed exceptional understanding of my situation. I am absolutely delighted with the way they dealt with my queries. #TrueStars'

M.A., investment bank

I really appreciate the collaboration with SSW, they are most professional and reactive.'

A.O., global bank

'Great service from SSW. Tess Man (SSW Hong Kong) was fantastic!'

G.D., investment bank

'I was very impressed with Madhuri's (SSW Mumbai) competence, attentiveness and professionalism. I would highly recommend SSW to any of my friends who require assistance with UK immigration.'

A.A., private client

Jack (SSW New York) was amazing throughout the whole process. He was always prompt with our questions and concerns and kept us informed throughout each step of the visa process.'

N.M., investment bank

'Fantastic service. Supported me from both the Hong Kong and the UK offices effectively!'

H.K., private client



SSW WINS ANOTHER AWARD!

Smith Stone Walters wins another award, following a successful evening at the glittering Re:locate Gala Awards Dinner.

Held at the prestigious Institute of Directors on Pall Mall and attended by over 200 guests from across the relocation spectrum, the evening celebrated the talent and hard work to be found within the industry.

Up for grabs were 12 awards in total, for which high-calibre shortlists had already been announced. Smith Stone Walters rose above the fierce competition to win the award for Excellence in Employee & Family Support.

This recognition rewards all members of the SSW team for their hard work in ensuring a focus on individual client care as well as on the legal side of employee relocation.

A Re:locate Judge commented that ‘SSW showed evidence of going the extra mile,

the outcomes of excellent customer service and sound, practical advice. The focus is on the employee and family, but the implications for the client organisation are also clearly addressed.’

In response, SSW Director James Walters stated that ‘we [SSW] are delighted to win this award and fully agree with the judges’ comments about immigration not solely being a legal service. Providing easily accessible key support to assignees and their families throughout the immigration process is paramount to the SSW ethos.’

Congratulations go to the SSW team which looks forward to continuing to provide a specialist service to relocating employees and their families.



From left to right, Naomi Hanrahan-Soar, James Walters, Rosie Favell and Lucy Campbell-Woodward receiving the Re:locate Award on behalf of the Smith Stone Walters team.

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 **the recent changes to the compliance regime for sponsor employers under the Points-Based System.***



“Immigration Compliance Officers may visit you to confirm that you are continuing to comply...”

The latest edition of the Tier 2 & Tier 5 guidance announces Immigration Rule changes that came into force in April. From a sponsor compliance perspective, the Home Office has included a number of new requirements which both employers and their sponsored migrant staff are especially advised to take note of.

What are my general duties as a licensed sponsor?

As a licensed sponsor you are expected to play your part in ensuring that the system is not abused. This means that you must fulfil certain duties. The objectives of these duties are to:

- Prevent abuse of assessment procedures
- Capture any concerning patterns of migrant behaviour
- Address weaknesses in process
- Monitor compliance with Immigration Rules

How will the Home Office check that I am complying with my sponsor duties?

Immigration Compliance Officers may visit you to confirm that you are continuing to comply with the duties and responsibilities of a licensed sponsor. These checks can be undertaken at random and visits may be unannounced. Licensed sponsors therefore need to ensure they are committed to maintaining compliance with their sponsor duties at all times.

What happens if I don't comply with my sponsor duties?

Since 2008, there have been measures in place to ensure the enforcement of sponsors' duties along with the identification of dishonest or incompetent sponsors. Non-compliance can result in your licence being revoked, suspended or downgraded to a B-rating.

Many sponsor duties can be easily overlooked. For example, in order to be compliant you must have at least one level 1 user in place who must be your employee throughout the life of your licence. If you do not have a level 1 user in place, this means that you cannot fulfil your sponsor duties and the Home Office will take action against you.

What are the key compliance changes raised by the Home Office in the new Tier 2 & Tier 5 guidance?

Many of the recent changes provide the Home Office with greater powers to revoke rather than just downgrade or suspend a licence. Here are some examples of where non-compliance can now lead to the loss of a sponsor licence:

- Your company is found to be unable or unwilling to continue to meet its sponsor duties;
- You assign an unrestricted Certificate of Sponsorship (CoS) to a migrant who requires a restricted CoS;
- You do not have in place the processes necessary to comply with your duties as a sponsor. For example, an employer's internal communications may not be good enough for it to know if a sponsored migrant has not reported for work;
- The Home Office is not satisfied that you can offer genuine employment that cannot be filled by a resident worker;
- You fail to assign a new Certificate of Sponsorship (CoS) (and where appropriate fail to properly conduct a resident labour market test) to a migrant who needs to make a change of employment application;
- You fail to employ a resident worker who was found to meet the job requirements in a role which you subsequently sponsored a migrant worker to undertake; or
- You supply false information on a Certificate of Sponsorship. For example: The salary on that CoS is different to the amount paid to that migrant.



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“...do you have the systems in place to ensure you report this change to the Home Office within 10 working days?”



Our advice to employers

There are currently over 29,000 organisations licensed to sponsor migrants under Tiers 2 & 5 of the Points-Based System. It is apparent that the Home Office considers this number to be excessive and that its aim is to reduce the total by a considerable amount by conducting a greater number of unannounced visits to those UK employers who currently hold a sponsor licence.

If a Home Office compliance visit is made to your organisation, compliance officers will not only want to verify your current sponsor licence information, check you are complying with your sponsor duties and speak to any migrant workers or to any employees or colleagues involved in the recruitment of migrant workers, but will also wish to inspect records and/or systems to ensure that you are following your sponsor obligations and adherence to rules, and to conduct checks on other workers to ensure you are complying with your obligation to prevent illegal working.

Since these compliance visits are now being regularly conducted on an unannounced basis, it is essential that you maintain and regularly audit your records and processes to ensure you are able to fulfil your sponsor duties.

It is usual for the nominated Authorising Officer within an organisation to undertake responsibility for the recruitment of all migrant workers and ensure that all of the organisation's sponsor duties are met. However, if this member of staff is unable to fulfil this task, then another employee (ideally with Level 1 access to the Sponsor Management System) should be nominated to assist in this undertaking.

The sponsor duties are detailed in full in the latest edition of the Tier 2 and 5 Points Based System Guidance for Sponsors, available on the GOV.UK website. Employers should regularly monitor their internal systems to ensure they are equipped to meet the documented sponsor obligations.

For example, if the contract of employment for one of your sponsored migrants is terminated earlier than shown on their Certificate of Sponsorship (CoS), do you have the systems in place to ensure you report this change to the Home Office within 10 working days?

How can Smith Stone Walters help?

As these latest changes prove, the rules surrounding sponsor compliance continue to be modified with an increasing level of enforcement. Smith Stone Walters can assist you by conducting an audit of your internal systems and identifying any weaknesses in your processes that could result in you failing to meet your obligations as a sponsor.

Contact Smith Stone Walters today to discuss how our sponsor compliance services can help you manage your migrant population.

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



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