

Editorial:
A stand alone EU
immigration system?
Page 2

Special Focus:
UK immigration
in numbers 2016
Page 4

SSW News:
Immigration
Team of the Year!
Page 6

Focus:
Ins and outs of the UK's
Tier 5 visa category
Page 10

**SMITH
STONE
WALTERS**

UK Immigration Practice

INSIGHT

UK IMMIGRATION NEWS & VIEWS
FROM SMITH STONE WALTERS
SUMMER 2017

Are we heading
for a '*stand-alone*'
EU immigration
system?



ARE WE HEADING FOR A STAND-ALONE EU IMMIGRATION SYSTEM?



UK businesses up and down the country are inherently reliant on EEA (European Economic Area) workers.

It is estimated that EEA nationals currently make up six percent of all UK employees, whilst in London alone one in every eight workers is thought to be an EEA citizen.

Nevertheless, post-Brexit immigration change is inevitable and a company's ability to employ EEA staff will be impacted if the door closes on free movement.

THE BIG QUESTION IS: WHAT WILL THIS CHANGE LOOK LIKE?

Following the result of the recent general election, it remains unclear as to how the government will proceed with immigration. Should the Conservative party pursue its election manifesto, however, we may see the introduction of a policy which both reduces and controls the number of people who come to Britain from the European Union. Unsurprisingly, there has been no indication as to how this would be done - legions of policymakers are no doubt still working around the clock to define a post-Brexit strategy.

Their task will centre on setting the qualifying criteria which EEA nationals must meet in order to work in the UK post-Brexit as well as deciding how to manage the overall number of qualifying EEA nationals. This secondary measure will be key in meeting the government's ambitious goal of reducing migration to 'tens of thousands'.

But will these immigration controls simply replicate those already set in place for non-EEA nationals? Or could we see the introduction of a new worker scheme specifically for EEA nationals?

EXTENDING THE TIER 2 SKILLED WORKER CATEGORY

The vast majority of non-EEA nationals seeking to work in the UK apply under the Tier 2 category having first secured a job offer from a UK-based employer.

The Tier 2 qualifying conditions centre on objective criteria such as salary level, qualifications and skills associated with the role. These adjustable measures allow the government to maintain control on how many Tier 2 workers qualify to enter the UK. For example, recent adjustments to the Tier 2 scheme have included a significant increase in the required minimum skills and salary levels which in turn ensures that only non-EEA nationals applying for highly paid and/or specialist positions in the UK can succeed.

"A substantial number of roles currently filled by EEA nationals would simply not qualify."

But it would be difficult to successfully extend this existing system to include EEA nationals post-Brexit since the vast majority of EEA nationals in the UK undertake either low or mid-skilled labour meaning that a substantial number of these roles simply would not qualify. Such a decision would therefore send shockwaves through those UK business sectors heavily reliant on EEA labour as well as the

wider-economy. If logic prevails, government policymakers will recommend that a less restrictive approach is adopted.

A SEPERATE EEA WORKER SCHEME

Another possibility is the creation of a separate worker scheme for EEA nationals with its own qualifying criteria.

Similar schemes have been employed in the past to register those workers seeking to reside in the UK from EU Accession states. When Poland and nine other countries became members of the EU on 1 May 2004, the Worker Registration Scheme was introduced to monitor where those citizens were entering the UK labour market. Whilst this was mostly a tick-box exercise, such a post-Brexit system could offer the government its desired level of control.

An EEA worker scheme could take many guises. For example, it could incorporate the need for UK companies to evidence that a comprehensive search of the resident labour market is carried out before an EEA national is hired. It could also impose the need for the employer to retain evidence that the hired EEA national holds the necessary skills for the role. Whilst resistance to such measures might be shown by the many UK companies used to employing EEA nationals with little red tape, this may well be the best possible outcome that can be hoped for.

By way of a further deterrent, the government might also choose to impose a fee on any UK employer hiring a EEA national, with costs applied to each separate EEA worker application or reflective of a

business's total EEA workforce over a specific period.

This last potentiality is unlikely to occur, however, as during the unveiling of the recent Immigration Skills Charge for Tier 2 employers, Ministers made it clear that this particular levy would not be imposed on those seeking to employ EEA workers post-Brexit. This will be of considerable comfort to the many companies who are currently reliant on EEA workers.

It also reinforces the notion that somewhere in Whitehall a new, less restrictive, worker scheme for EEA nationals is being fashioned.

We should all keep our fingers crossed!

SMITH STONE WALTERS

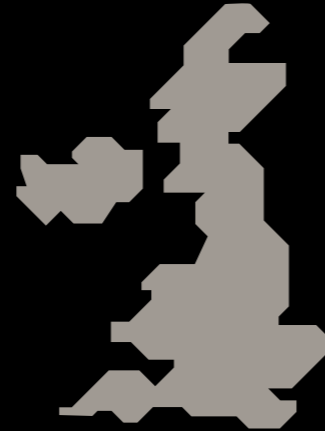
In this edition of Insight...

The summer edition of Insight takes a topical look at immigration issues including the new Immigration Skills Charge, the latest UK immigration statistics and a quick reminder of the new immigration rules which are affecting UK employers. Also in the spotlight is Tier 5, the UK's temporary worker visa category and SSW's recent win at the Re:Locate Awards!

For regular industry news updates sign up to our UK Immigration News Service.

www.smithstonewalters.com/signup

UK IMMIGRATION IN NUMBERS 2016



We present the headlines from the latest UK migration figures published by the Office for National Statistics. All figures shown here are long-term* estimates for the year ending (YE) December 2016 and are compared to the same period in 2015 unless otherwise stated.

* Long-term migration is considered as any stay in the UK which is longer than 12 months

NET MIGRATION



A net total of 248,000 people are estimated to have immigrated to the UK in 2016, a drop of 25% (84,000) from the previous year. The decrease was driven by more EU citizens leaving the UK and fewer EU citizens coming to the UK. Immigration was estimated to be 588,000 whilst emigration was understood to be 339,000.

DOWN 25%

EMIGRATION



Around 339,000 people emigrated from the UK. This is 13% (40,000) more than during the previous year and was largely driven by a 36% increase in the number of EU citizens leaving the country.

UP 13%

EU MIGRATION



A total of 247,000 EU nationals migrated to the UK, with EU15, EU8 and EU2 immigration estimated to be 132,000, 48,000 and 67,000 respectively. EU8 nationals made for the lowest immigration estimate (34% down from 2015) since their countries joined the EU in 2004.

247,000

NON-EU MIGRATION



Immigration to the UK of non-EU citizens was estimated to be 264,000, down 5% from the previous year, with 66,000 of these coming for work-related reasons.

264,000

WORK



275,000 people immigrated to the UK for work purposes, making it the most popular reason for immigration in 2016. Of this number, 61% were EU nationals, 25% non-EU nationals and 14% British nationals. India and US citizens made up the majority of non-EU arrivals whilst top employment sectors for visa nationals were IT, science, technology and finance.

275,000

EMPLOYERS



There are currently 29,349 registered employers of Tier 2 and 5 migrants. This is 8% fewer than this time last year and may be the result of rising immigration costs.

DOWN 8%

STUDY



19% (32,000) fewer people came to the UK for study purposes (136,000). Study remains the second most popular reason to come to the UK, however, with the highest number of study visas being awarded to those from China (37%), the US (7%), India (6%), Hong Kong (4%) and Saudi Arabia (4%).

DOWN 19%

FAMILY



The third most common reason for migrating to the UK is to accompany or join others. Of all long-term immigrants in 2016, 85,000 (14%) arrived in the UK for this reason - the highest figure since 2014.

85,000

SETTLEMENT



57,111 people were granted permission to stay permanently in the UK during the YE March 2017 - this is 28% fewer than the previous year and attributed to falls in work grants (-17,634) along with changes to the Immigration Rules.

DOWN 28%

THE IMMIGRATION SKILLS CHARGE



Also known as the ISC, this new immigration charge is payable by the employers of Tier 2 migrants and intended to deter companies from hiring non-EEA nationals.

The charge varies according to the size of the sponsoring employer, with large/medium-sized corporates paying £1,000 per Tier 2 hire per year and smaller or charitable organisations being charged only £364 per Tier 2 hire per year.

Applying to all migrants hired via the Tier 2 General and Intra-company Transfer routes, regardless of whether the application was submitted inside or outside of the UK, the ISC is not payable for dependant and other applications types such as those for Tier 2

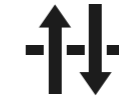
Graduate Trainee or PhD roles, and Tier 4 to Tier 2 switches.

“The charge varies according to the size of the sponsoring employer.”

Despite such exceptions, however, the ISC still presents surging immigration costs for many UK businesses. For example, a Tier 2 (General) visa being issued for three years now incurs an additional £3,000 in UK immigration costs for the sponsoring organisation.



NEW IMMIGRATION RULES



Alongside the ISC, April saw the introduction of new Immigration Rules. Here is a short reminder of some of the more salient changes for UK employers:

Tier 2 (General)

- Applications can now be refused if the new Immigration Skills Charge is not paid in full
- The minimum salary requirement for ‘experienced hires’ is now £30,000 (raised from £25,000)
- The minimum salary requirement for high earners is now £159,600 (raised from £155,300)
- A wider range of online platforms can now be used as part of a Resident Labour Market Test (RLMT) for graduate recruitment programmes
- Nursing, medical and teaching roles continue to be included on the Shortage Occupation List



Tier 2 Intra-company Transfer (ICT)

- The Tier 2 Intra-company Transfer (ICT) Short Term visa category is now closed
- The Immigration Health Surcharge of £200 per year is now applicable to main applicants and their dependants
- Applicants earning £73,900 or above are no longer required to have one year’s previous employment experience with the sponsor’s linked overseas entity
- The minimum salary requirement for applicants extending their Tier 2 ICT visa for up to nine years is now £120,000 (raised from £155,300)

BREXIT AND EEA NATIONALS



It is important to plan ahead for the welfare of your European workforce.

With a continuing lack of clarity over the position of EEA nationals (European Economic Area) in the UK, there are currently no guarantees that these individuals and their families will be able to remain in the UK following its formal exit from the European Union. It could be that

their right to live and work in the UK remains intact, but we may see another story altogether.

There are options currently available to EEA nationals, however, which could help them to secure their UK status against the potential outcomes of Brexit. Raising an awareness of these options amongst your EEA workforce is therefore imperative in allowing both you and your employees to plan for the future.

For more information on what these options are, or to find out what our Brexit Immigration Service can do for you, contact us on:

+44 (0) 208 461 6660 or info@smithstonewalters.com

CRIMINAL RECORD CHECKS

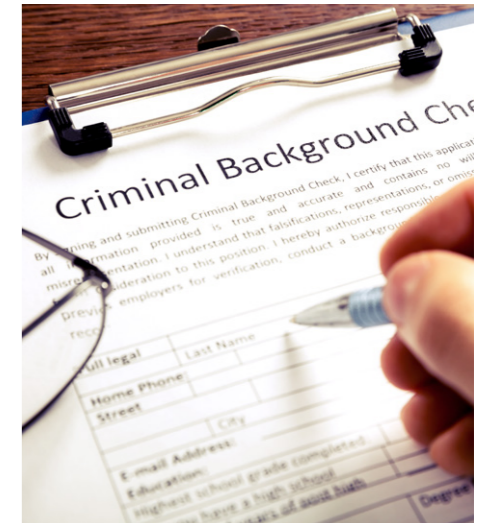


Tier 2 (General) visa applicants looking to work in certain UK sectors must now provide a criminal record certificate as part of their UK visa submission.

This new requirement currently affects Tier 2 General applicants with employment offers in the health, social or education sectors, but there are plans to extend this visa requirement in the future to cover all roles applied for under Tier 2.

“Certain UK sectors must now provide a criminal record certificate as part of their UK visa submission.”

The same requirement is also applicable to any adult dependant wishing to accompany a main Tier 2 (General) visa applicant during their stay in the UK.



SSW NAMED IMMIGRATION TEAM OF THE YEAR 2017!



The SSW team was delighted to be named Immigration Team of the Year 2017 at the prestigious Re:locate Awards!

The Re:locate Gala Awards Dinner recently hosted the brightest and the best in the global mobility industry at London's fabulous Science Museum, honouring industry innovation and standards.

Immigration Team of the Year 2017 – Winners!

Celebrating the provision of trustworthy and high-level immigration support to employees and their families, this is the second time that SSW has been named Immigration Team of the Year. The team was elevated above the field for its 'valuable contribution to its clients and the immigration services sector as a whole' through 'innovation and preparedness'.

"This is the second time that SSW has been named Immigration Team of the Year."

Upon winning the award, SSW Director James Walters stated that:

"Winning this award recognises the incredible effort made by the whole SSW team to ensure that the highest levels of client service are consistently achieved at a time when immigration is taking centre stage on the political agenda."

We would like to congratulate the whole SSW team for making such industry recognition and acclaim possible – *well done team!*

Excellence in Employee & Family Support – Highly Commended!

SSW was also Highly Commended for its entry in the Excellence in Employee & Family Support category.

This award recognises those delivering a specialist service to relocating employees and their families, adding both expertise and value to the relocation experience.



LET'S TALK UK IMMIGRATION!

Taking place in central London, our UK Immigration Seminar for employers tackled two key areas of UK immigration: the newly updated Immigration Rules and, of course, Brexit.

New UK Immigration Rules (valid as of 6 April this year) are already affecting many employers of non-EEA workers. Senior SSW immigration adviser Anthony Hall discussed the most wide-reaching of these changes before turning the attention towards Brexit.

SSW adviser Alastair Mason discussed the potential effects of Brexit on EEA employees and the UK immigration options currently available to them and their families, as well as outlining the steps which employers can take now in order to protect the UK status of their EEA workforce in the future.

Thank you to everyone who helped make the afternoon such a success and we look forward to seeing you all at our next UK Immigration Seminar!



WHAT OUR CLIENTS SAY ABOUT US



Thanks to high service standards we are once again able to boast a 100% client satisfaction rate for the past three months and would like to share with you the kind words used by clients to describe the SSW experience.

"A huge thank you to Tess (SSW HK). We were thrown a very challenging situation however Tess handled this brilliantly. I would highly recommend Smith Stone Walters to anybody going through this process."
M.O., nutrition, health and wellness firm

"This is the second occasion on which SSW India has supported me with my UK visa and has been spot on with their work! Great job team!"
M.B., private client

"Thank you to the team at SSW UK. They are professional, detailed, and quick to respond to any queries or concerns. Would definitely recommend you to my family or friends when they are looking for anyone."
A.S., specialist residential developer

"Rob and Nick (SSW UK) really cared about my needs and worries and helped me with the best solution. I'd definitely recommend the very trustworthy service of SSW to friends and come back to SSW again!"
X.H., career services

"Excellent and timely service by Jack and team (SSW USA). I was operating on a very tight deadline and not only did the team meet the deadline, they beat it!"
C.L., global financial services firm

"I am an extremely satisfied customer of Smith Stone Walters. The person representing my case, Shubo (SSW UK), was extremely helpful. I would give her 11/10 for her work. She is fab."
M.K., global financial services firm

“

EXCELLENT

PROFESSIONAL

DETAILED

TRUSTWORTHY

FAB!

”

This edition of Focus discusses the ins and outs of the UK's Tier 5 visa category which facilitates temporary work experience, training or internships for non-EU nationals in the UK.

Tier 5 Work Experience - Government Authorised Exchange (GAE) Schemes

The Tier 5 visa scheme allows non-EEA Nationals to carry out temporary work experience, internships or approved training in the UK under a number of different circumstances. There is a wide scope of authorised work covered by this category including sport, entertainment, volunteering and diplomacy.

Most Tier 5 workers need a job offer from a licensed Tier 5 sponsor in the UK before being able to apply, but applicants aged 18 – 30 from a small number of countries whose nationals come under the Youth Mobility Scheme (including Australia, Canada, Hong Kong, Japan, Monaco, New Zealand, Republic of Korea or Taiwan) can gain entry without a job offer.

For other non-EEA nationals seeking to enter the UK to undertake an internship or temporary work experience placement, the most popular Tier 5 subcategory to consider is Government Authorised Exchange (GAE).

This category was established for those “individuals coming to the United Kingdom through approved schemes who aim to share knowledge, experience and best practice through work placements, whilst experiencing the wider social and cultural setting of the United Kingdom”.

How does the GAE work?

There are a number of government-approved sponsor organisations which run a large variety of individually approved exchange schemes covering various industry sectors and offering different programmes under one of the following categories:

- **Work Experience Programmes:**
12-month internships or job shadowing
- **Research Programmes:**
24-month work placements on a specific scientific, academic, medical or government research project
- **Training Programmes:**
24-month formal, practical training programmes in science and/or medicine which would normally lead to a professional qualification
- **Overseas Government Language Programmes:**
Aimed at language teachers sponsored by their overseas government to carry out teaching placements in the UK

Not only do these organisations (known as ‘overarching bodies’) manage the exchange scheme, but they also act as the sponsor for the duration of the chosen programme.

Before a certificate of sponsorship can be assigned they will need to ensure that the applicant:

- 1 is seeking entry to the United Kingdom to work or train temporarily through an approved exchange scheme;
- 2 does not intend to establish a business in the United Kingdom; and
- 3 meets the requirements of the exchange scheme in question.

The full list of approved GAE sponsors and their programmes can be found on the UK government website at www.gov.uk/tier-5-government-authorised-exchange/overview.

What key requirements need to be met?

Each application is assessed against the terms of the particular programme in question. For example, the Bar Council programme is specifically aimed at overseas law students and lawyers undertaking pupillages (both funded and unfunded), as well as mini pupillages within barrister chambers and other legal training programmes.

Nevertheless, there are common eligibility requirements associated to every programme, such as:

- roles must be supernumerary - not part of the employer's headcount;
- roles must be supervised and require a minimum skill level of NVQ Level 3;
- internships must pay at least UK National Minimum Wage; and
- interns must either hold a degree, or be studying towards a degree at least equivalent to a UK bachelor's.

Provided that the over-arching body is satisfied that the proposed internship meets all required criteria, it will be able to issue the Certificate of Sponsorship (CoS) required for the UK visa application.



Applying for a Tier 5 (GAE) visa

An application for a Tier 5 (GAE) visa must be made from outside the UK in the applicant's country of residence, with only a few exceptions.

The visa application process is fairly standard. The applicant will need to evidence that they have been awarded a certificate of sponsorship - a reference number which holds information about the job and their personal details.

In addition to this, they must show that they possess £945 in savings which has been in their bank account for at least 90 days prior to the submission of the application. This is to prove that they can support themselves whilst in the UK.

This requirement can be circumvented, however, if the fully approved ('A-rated') sponsor has stated on the certificate of sponsorship that they will certify the applicants maintenance and that they will not claim benefits during their stay.

Are there any post-arrival conditions?

Yes! In securing approval under a Tier 5 GAE scheme, the applicant is agreeing not to receive public funds (benefits which are provided by the state), but the scheme does entitle them to:

- study (for some courses an Academic Technology Approval Scheme certificate is required);
- undertake a second job for up to 20 hours per week so long as the position is in the same sector and at the same level as the work for which the Certificate of Sponsorship was assigned;
- undertake a job on the Tier 2 shortage occupation list for up to 20 hours per week outside of the main job's normal working hours; and
- bring family members with them.

Can Smith Stone Walters assist me in this application?

Yes! Contact Smith Stone Walters for friendly and up-to-date immigration advice on your options – we specialise in UK immigration and can help you identify your best plan of action.

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