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**SMITH  
STONE  
WALTERS**

UK Immigration Practice

# INSIGHT

UK IMMIGRATION NEWS & VIEWS  
FROM SMITH STONE WALTERS  
SPRING 2018

Will the government  
recognise *the economic  
value* of welcoming  
overseas companies?



# BRITAIN IS GREAT BUT...

*How can it make sense to suppress work-based migration while actively promoting the UK to overseas businesses and inward investors?*

Six years on from the government launching one of its most ambitious marketing campaigns ever developed, the GREAT brand initiative continues to promote the UK as the global destination of choice for trade and inward investment.

## A GREAT RETURN

GREAT has been a remarkable success story. Figures show that £113.5 million of government money has been pumped into promoting the brand between 2012 and 2015. As a result, it has generated an impressive £1.2 billion return on investment.

The funding has enabled partner organisations such as the UK Trade & Investment (UKTI), British Council and VisitEngland to organise hundreds of worldwide events and

encourage many more foreign businesses, students and entrepreneurs to move to the United Kingdom.

The GREAT campaign deserves its plaudits. However, it also deserves to be able to work in harmony with a sensible immigration policy.

Unfortunately, the government's hard-line stance on 'controlling immigration' and its insistence on maintaining an arbitrary migrant cap has put paid to that.

How such a contradiction exists is extraordinary. The government clearly recognises the economic value associated with welcoming overseas companies to this country, but is less keen to help them set up their UK business operations here.

## EMPLOYER-SPONSORED SKILLED MIGRATION

When an overseas business locates a new office or a factory in the UK, many seek to recruit specialist staff from overseas to move their business forward. While immigration regulations cannot allow businesses to avoid their obligations to improve the skills of the British workforce, the rules must give businesses the opportunity to widen their search for skills if they are not available locally.

The government does not seem to comprehend that UK companies will only recruit migrant workers if the skills their business needs are not available locally. Recruiting nurses from abroad to work in the NHS is a prime example of this.

With a record number of employment opportunities now available in the UK, and an ever-increasing number of European nationals choosing to leave this country after the recent referendum result, it is not only newly launched businesses that are seeking to source skilled staff from overseas. UK employers (including the NHS and schools) have little choice but to do the same.

Since 2010, as part of its ongoing drive to cut net migration and limit the demand for migrant workers, the government has placed an annual limit on the number of non-EEA skilled workers eligible to receive a Restricted Certificate of Sponsorship (RCoS) and therefore work in the UK.

Each year, the quota runs for 12 months from 5 April. The RCoS limit has always been maintained at 20,700, with the availability of certificates split into

monthly allocations. Employers who wish to offer a RCoS to a skilled non-EEA person must apply to the Home Office as part of the monthly allocation cycle.

With demand now exceeding supply, the quota on the number of workers that employers can sponsor was hit for the third consecutive month in February. Aside from PhD roles and those listed by the government as a shortage occupation, skilled migrants must earn at least a £50,000 per annum salary to qualify for a RCoS.

Despite the minimum salary requirement under this route being set at £30,000 per annum, all genuine requests to employ workers from overseas on a salary less than £50,000 per annum since December 2017 were rejected and told to re-apply the following month.

With hundreds of skilled migrants being turned away each month, the cap on work-based migration is damaging businesses and the UK economically.

Ahead of the new annual allocation being set for April 2018, the government could choose to make a positive change and instill greater confidence in its ability to adapt immigration policy to suit the current economic conditions. This would be achieved simply by either increasing the limit of the cap from the existing figure of 20,700 or scrapping it altogether.

With little sign the government is considering either option, business owners may have no choice but to relocate elsewhere, further hampering the UK's reputation.

It is all very well telling companies how GREAT this country is, but unless businesses can plan their recruitment strategies with confidence, and take away their reliance on a monthly lottery, they are less likely to come and even less likely to stay.

## SMITH STONE WALTERS

*This edition of Insight takes a look at the latest migration statistics and includes an update on the increased cost of the Immigration Health Surcharge. For regular updates on all UK immigration matters, make sure you subscribe to our free UK Immigration News Service! [www.smithstonewalters.com/signup](http://www.smithstonewalters.com/signup)*



# UK MIGRATION IN NUMBERS

*Immigration continues to go down  
and emigration is up.*

We explore the most recent information from the Office for National Statistics, looking at long-term migration\* estimates to and from the UK over the course of the year ending September 2017.

All data presented here is related to the year ending September 2017 (unless specified otherwise) and is compared with data from the year ending September 2016

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



## NET MIGRATION



Net migration is the difference between the number of people coming to live in the UK for at least a year and the number leaving for over a year. If net migration is above zero, as it has been since 1994, it means that migration is adding to the UK population.

Net migration in the UK has fallen for the second year running, with 244,000 more people coming to the UK than leaving. This is a drop from the record level of net migration (+336,000) seen in 2015.

# 244,000

## EU MIGRATION



Fewer EU citizens came to the UK, and the number leaving the UK increased in the 12 months to September 2017. Net EU migration amounted to 90,000. This figure has fallen by 75,000 or 45% over the last year.

The number of EU citizens coming to the UK for work-related reasons has also fallen over the last year, in particular those coming to the UK 'looking for work'.

# 45% DOWN

## WORK



Not surprisingly, this is one of the most common reasons people come to the UK, and also the most common reason why they leave. 248,000 people arrived in the UK for work related reasons.

That's 45,000 fewer than in 2016. Of these, nearly two-thirds already had a definite job offer and the remainder were 'looking for work'. Out of a total of 334,000 people emigrating from the UK in the last year, 179,000 left for employment reasons.

# 248,000

## EMPLOYERS



There are currently 29,033 UK organisations registered as sponsors of Tier 2 and 5 migrant employees. This is nearly 600 less than the figure from this time last year.

# 29,033

## FAMILY



The combined total number of family-related visas granted in the last year, including EEA Family permits granted to non-EEA nationals and visas granted to dependants of other visa holders, was 134,857. This is a similar level to the previous year.

# NO CHANGE

## STUDY



Study is still the second most popular reason for migrants coming to the UK. Immigration to the UK for study reasons increased by 29,000 to 163,000. Nationals from three countries (China, USA and India) made up over half (53%) of the study-related visas granted in 2017, with the largest number going to Chinese citizens (88,456).

# 163,000

## SETTLEMENT



A total of 63,941 people were granted permission to stay permanently in the UK in 2017, 5% more than in the previous year. The number of grants is low relative to the peak in the year ending September 2010 (241,586).

# 5% UP

## NON EU MIGRATION



Net non-EU migration increased by 40,000 to 205,000 over the last year. Due largely to the recent drop in migration of European nationals to the UK, non-EU migration is now significantly higher than EU net migration.

# 24% UP



# THE BREXIT IMMIGRATION SERVICE

*Smith Stone Walters offers clients the chance to prepare their organisations for the effects of Brexit by using this comprehensive service.*

Designed for those UK organisations which employ European Economic Area (EEA) nationals, our Brexit Immigration Service is tailored to the needs and wishes of each client, and is intended to provide peace of mind.

Let our immigration experts present to your staff on the current state of Brexit and the latest UK immigration law updates as well as discuss the impending changes for EEA nationals. Interacting with your staff on a one to one basis enables us to outline the UK immigration options available to them and their families.

*For further details on the Brexit Immigration Service, please contact Smith Stone Walters on 0208 461 6660.*



# SSW ATTENDS HR CONFERENCE

*SSW staff joined fellow experts from the global mobility industry last month at the HR Conference hosted by International HR Advisor.*

This well attended event included a number of thought-provoking seminars ranging from global mobility trends to immigration.

During the conference, Smith Stone Walters's Anthony Hall (Head of Private Client Team) took to the stage to address a large number of HR professionals from across a range of industries. Entitled *Brexit – How will*

*it affect you?* Anthony's speech centred on the UK's imminent departure from the EU and the residency opportunities open to those EEA nationals currently living here.

A team from Smith Stone Walters was also on hand throughout the day to provide advice on a variety of UK immigration issues for both corporate and individual delegates.



# WHAT OUR CLIENTS SAY ABOUT US



*Shout to the top! Smith Stone Walters is proud to shout about the high praise it regularly receives from satisfied customers for providing a WOW service:*

*'Anthony & Kaming (SSW UK) were a huge help and made the overall ILR process very smooth. A very professional and attentive service. Will certainly recommend SSW in the future'*  
*VB, private client*

*'I would like to formally recognise Phill's excellent service. I'm sure that my case was quite complicated. Phill was very professional, quick and a respectful person. I'm really satisfied. Thank you so much!'*  
*DL, investment banking firm*

*'Best service and one of the best decisions of my life to use SSW, very pleased!'*  
*PS, UK manufacturing firm*

*'Thanks a lot Richard (SSW UK) for your top class service. It has been simply fantastic to deal with you. You are very reachable and very quick with your responses. Keep it up!'*  
*VS, investment banking firm*

*'Excellent coordination and support from Prestina (SSW India) & Molly (SSW UK). Thank you so much!'*  
*MM, IT solutions firm*

*'The experience was made remarkably pleasant and I could not say enough positive things about Shubo (SSW UK) & the team.'*  
*JS, investment banking firm*

*'Everyone at SSW was incredibly helpful, prompt, and thorough. They made applying for a visa a painless process. I would highly recommend their services to anyone applying for a UK visa.'*  
*TS, biomedical research institute*

“

EXCELLENT

QUICK

ATTENTIVE

PROMPT

POSITIVE

”



# EU RIGHTS TO RESIDENCY DURING TRANSITION



*The government has announced that EU citizens and their family members will be able to move to the UK during the transition period on the same basis as they do today.*

In what many Brexiteers are classing as a major climb-down by Theresa May, the latest policy statement confirms no new constraints are to be imposed on those EU citizens arriving to either work or study in the UK after 29th March 2019.

Instead, those EU citizens and their families arriving during the implementation period will be eligible to register under a new Home Office system and apply for permanent residency after five years' continuous and lawful residence.

The statement mentions the use of a three-month window to allow applications to be submitted beyond the end of the transition period to ensure that there is no 'cliff-edge' scenario and also confirms Irish citizens will not be required to register.

It is thought that this concession has been made partly because the government is running out of time to decide on its post-Brexit policy and partly for pragmatic reasons – namely to avoid the huge cost

and difficulties in finding the right staff and resources to administer two separate immigration systems.

The government is attempting to provide certainty for EU citizens planning a move to the UK next year as well as those UK businesses deliberating over the employment of EU citizens during the transition period. But their three page statement lacks significant detail and is therefore open to challenge by the EU Commission, particularly in relation to the following points:

- The rights to residency for EU citizens arriving during transition will be enforceable in the UK legal system and not the European Court of Justice; and
- The ability for 'transitional' EU citizens to be joined by family members after the implementation period will be determined by the UK government in line with the UK immigration rules, not European law.

The UK government believes this new offer to those EU citizens intending to arrive during transition is a pragmatic step towards implementing a future UK immigration system. We will need to wait and see whether the EU Member States hold a different point of view.



*“The government is attempting to provide certainty for EU citizens planning a move to the UK next year”*



# ARE IMMIGRATION CHARGES PUTTING OFF NURSES FROM ABROAD?



*Healthcare professionals continue to be in such short supply that the government has listed many as shortage occupations; jobs that should sensibly be filled by immigration from outside the European Economic Area.*

But are the government's immigration visa fees making it just too expensive for these migrant workers to live in the UK?

One compulsory premium, the Immigration Health Surcharge, is set to double from £200 to £400 for each adult per year, and from £150 to £300 for each student. The increase is expected in April this year and is on top of the cost of a UK visa application.

This amount is for each individual only, and does not count the extra costs of bringing family members with them. It is therefore a considerable dent in a nurse's basic starting salary of £22,128.

To alleviate this, NHS trusts have been loaning overseas recruits the funds to pay these upfront fees.

Paul Myatt, Policy Advisor at Workforce: NHS Providers, said: "An irony of the health surcharge, however, is that while it may add

a couple of hundred million to NHS funds, it also makes it harder for trusts to recruit much-needed health workers from overseas."

A recent NHS report warned that "workforce is the most pressing challenge to delivering high-quality healthcare". Experts who noticed an NHS staffing crisis back in 2016 warned that it will take several years to find the right doctors and nurses to improve the shortfall.

The government needs to get the balance right between gaining an increased level of revenue from new arrivals to this country and supporting the NHS Trusts in recruiting and retaining foreign health practitioners that the domestic workforce cannot provide.



*"Experts who noticed an NHS staffing crisis back in 2016 warned that it will take several years to find the right doctors and nurses to improve the shortfall."*

# SKILLED MIGRANT QUOTA FILLED AGAIN!

*For the third month in a row, in February 2018, demand for Tier 2 Restricted Certificates of Sponsorship (RCoS) has exceeded supply. This leaves many skilled migrant workers from overseas unable to take up jobs they have already been offered in the UK.*

Each month, the Home Office's RCoS application process sets aside a certain amount of certificates for allocation. For example, in February it was 1,908.

Applications are based on a points table, with priority points awarded to those jobs in shortage or PhD-level occupations.

Once that quota has been filled, the Home Office looks at the salary of the job on offer – the higher the earnings, the more points will be given.

Valid applications in November 2017 were successful if they scored at least 21 points. However, in December, it was 55 points, while for January and February 2018 at least 46 points.



This suggests a trend towards only accepting migrant workers who will be earning at least £50,000 per annum, as these prospective employees were the ones who managed to secure their Tier 2 RCoS in the past quarter.

The government refuses to comment on how many RCoS requests it declines. However, it is likely to be in the hundreds. These unsuccessful requests are very likely to be resubmitted for consideration in the following month's allocation, with the result that there will be a backlog of applications throughout 2018.

The number of available certificates for a Tier 2 RCoS in March 2018 is only 1,126. The quota total will be reset in April, but there is as yet no word whether the government will increase its limit – or as some suggest, scrap it entirely – to reflect the over-subscription.

*"This suggests a trend towards only accepting migrant workers who will be earning at least £50,000 per annum."*





*If you're a non-EEA national and applying for a visa to work, study or join your family in the UK for more than six months, you are required to pay towards the National Health Service – and this fee is set to double in April. This edition of Focus provides an update on this migrant charge.*

## *What is the Immigration Health Surcharge (IHS)?*

Introduced in 2015, the IHS is a compulsory payment made as part of a UK visa application, in order to receive free healthcare under the National Health Service (NHS).

Those who pay the surcharge (or are exempt from paying it) are 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.

## *Why was it introduced?*

The surcharge was put in place to deter so-called 'health tourism' - people travelling to Britain for NHS treatments they are not entitled to. Health tourists made up about 0.3% of the NHS's total budget last year. These patients are divided into three categories:

- Overseas nationals who need treatment while they're visiting.

These are known as 'normal' users. Only around £500 million of their expense is deemed to be recoverable and, in practice, only £100 million was reclaimed in 2013/14.

- Overseas nationals who need acute, expensive surgery and are admitted to casualty.

These 'deliberate' users are harder to calculate, because Accident and Emergency treatment is considered 'free at the point of use' for all, whether you are a UK resident or not. It is only if migrant patients need treatment in or linked to a hospital on a non-emergency basis that they will need to pay.

- Expatriates

Those who no longer pay tax/National Insurance in the UK, but return on a regular basis to see a familiar GP.

The introduction of the IHS in 2015 was seen as a way of recouping some of this government expenditure from non-European migrants seeking to move to the United Kingdom.

## *Who needs to pay?*

All non-EEA citizens applying to enter the United Kingdom for more than six months' duration (excluding those applying to remain in the UK permanently) need to pay.

For immigration applications made from within the UK, migrants need to pay IHS for any length of stay, including applications for six months or less.

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

## *When is it paid?*

Migrants must pay the surcharge as part of their application process, and may only start to use the NHS once their visa or immigration application is granted. In addition, they will still need to pay for prescriptions, dental treatment and eye tests.

## *My UK employer offers medical insurance to employees: is the IHS still required?*

Yes. It is not possible to opt out of the surcharge, even for those who have made their own private provision for healthcare.

## *How much is it?*

The current charge is £200, but ministers announced last month that the figure is set to double to £400. The discounted rate for students or those on a Youth Mobility Scheme visa will rise from £150 to £300. The increase is expected to come into effect in April this year.

Health Minister, James O'Shaughnessy, said as he announced the news in February: "It is only right that people who come to the UK should contribute to the running of the NHS. By increasing the surcharge so that it better reflects the actual costs of using health services, this government is providing an extra £220 million a year to support the NHS."

Based on a five year visa, a migrant worker who plans to bring a spouse and two children into the UK will be required to pay £8,000 in IHS fees before he/she can enter the UK.

## *Will this increase put off people applying to work in the UK?*

No, claims the government. Immigration Minister, Caroline Nokes, has said: "The surcharge offers access to health care services that are far more comprehensive and at a much lower cost than many other countries. The income generated goes directly to NHS services, helping to protect and sustain our world-class healthcare system for everyone who uses it."

The Department of Health and Social Care (DHSC) estimates that the NHS spends £470 on average per person per year on treating surcharge payers.

## *Will there be more increases to come?*

In its 2017 manifesto, the Conservative Party stated that its aim is to triple the IHS to £600 for each adult and £450 for students. So the figure could rise yet again.

## *How can I find out more?*

We are specialists in advising UK business and individual migrants on all aspects of UK immigration law. If you are concerned as to how the surcharge will affect your personal or corporate immigration strategy, please contact Smith Stone Walters today.

*Moving people to the UK is our business. It is what we do best.*  
[www.smithstonewalters.com](http://www.smithstonewalters.com)



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