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**SMITH
STONE
WALTERS**

Immigration Practice

INSIGHT

IMMIGRATION NEWS & VIEWS
FROM SMITH STONE WALTERS
AUTUMN 2020

Recruiting
global talent?
*Act now or
pay later*



ACT NOW OR PAY LATER...

31 December 2020 marks the end of the Brexit transition period, and with it the UK will officially close the door on Freedom of Movement from the European Union (EU) and implement its new points-based immigration system on New Year's Day 2021. The new rules bring major changes for EU citizens coming to the UK to work, with both EU and non-EU citizens treated equally under the new immigration system.

If your business is planning on moving EU staff to the UK next year, or indeed moving UK staff to Europe, you may want to consider bringing forward some of these moves to this side of the New Year, to take advantage of free movement whilst you still can.

Why do we say this? As a UK employer hiring overseas talent, you will no longer be able to freely recruit or transfer skilled migrants from the EU once the transition period terminates at the end of this year. Instead, all overseas citizens coming to the UK for work will need to go through the more complex and costly process of obtaining a visa under the new skilled worker route.

If you intend to transfer EU employees in the first quarter of 2021, ask yourself if any of those moves can be facilitated before January. This will present three clear benefits to your business and your EU employees: saving money, saving time and better benefits for your employees. Here, we explore these three key areas in more detail.

COST SAVINGS

An attractive prospect for any business is the potential to save money whilst still achieving business objectives. If your organisation intends to transfer European staff to the UK in early 2021, it is certainly worth considering putting the wheels in motion now.

Moving your EU or EEA employees to the UK before the transition period ends on 31 December will present significant cost savings for your business. Conversely, from January, the costs associated with employing migrants

under the UK's new skilled worker route will escalate.

Notwithstanding the impending obligation placed on all UK businesses to hold a Home Office sponsor licence in order to hire skilled workers from overseas, employers will also be required to pay set fees for each skilled migrant they sponsor. These charges include a fee for every Certificate of Sponsorship they issue, and a levy known as the Immigration Skills Charge.

From the employee's point of view, costs to consider under the new system are the visa application fees themselves, plus the Immigration Health Surcharge which migrants must pay in order to access free healthcare in the UK. For an employee with multiple dependents, these costs can easily stack up into thousands.

A SIMPLER PROCESS

As well as saving money on immigration fees, transferring staff before the rule changes means employers can avoid going through the more complex application process and stringent documentary evidence requirements for employing migrant workers under the new skilled worker route.

The EU Settlement Scheme offers a fully digital application process which is much simpler to complete

and in most cases requires fewer supporting documents than applying for a visa under the new points-based system.

GREATER BENEFITS FOR YOUR EMPLOYEES

EU citizens who are living in the UK by 31 December 2020 are eligible to apply for settled status under the EU Settlement Scheme (EUSS), and have until 30 June 2021 to submit an application. This means that, providing your EU employees touch down in the UK before New Year's Eve, they will be able to apply for settlement.

Successful applicants will be granted settled or pre-settled status, which will allow them to work or study in the UK, access free healthcare and travel in and out of the UK. Applicants are usually granted settled status if they have lived in the UK for a continuous period of five or more years, or pre-settled status if they have less than five years' continuous residency at the point of application.

Obtaining settled status will offer your staff the flexibility to live outside of the UK for up to five years whilst still maintaining their settled status. In contrast, individuals with Indefinite Leave to Remain (ILR) lose their status if they stay outside of the UK for two or more years at a time. Your

employees will also be able to make an application for UK citizenship after holding settled status for 12 months.

A successful application for settled status under the EUSS will provide your employees with a secure, digital immigration status which future-proofs the residence rights that EU citizens currently have under EU free movement rules.

BE AWARE, BE PREPARED

At the time of writing, there is now less than four months to go until free movement ends and the new immigration rules come into force. Following what has been a highly unexpected and turbulent year for most businesses, Smith Stone Walters would encourage employers to take the time now to prepare for the upcoming changes to ensure your business can hit the ground running in 2021.

SMITH STONE WALTERS

If you need support with transferring your EU staff before the transition period ends, contact a SSW consultant to find out how we can help.

THE NEW GRADUATE ROUTE

The government has expressed a commitment to making the UK a top study destination for international students by making it easier for the best international graduates to secure skilled jobs in the UK.

A new graduate immigration route opening in summer 2021 will allow international students to stay in the UK and work or look for work at any skill level, for two to three years after successfully completing their studies.



DURATION



The graduate route will grant undergraduates and master's degree students two years' leave, whilst PhD students will be allowed to stay for three years.

ELIGIBILITY



Applicants must have successfully completed a degree at undergraduate level or above at a UK Higher Education Provider with a track record of compliance. The degree must have been completed entirely in the UK, except for permitted study abroad programmes or when remote learning has been required due to COVID-19.

TIER 4 VISA HOLDERS



The graduate route will be open to all international students graduating from a UK university who hold a valid Tier 4 student visa when the route opens in 2021. Applicants must have valid and extant leave as a student at the point of application.

IMMIGRATION HEALTH SURCHARGE



Graduate visa holders will not have access to public funds and will need to pay the Immigration Health Surcharge at the usual rate for the points-based system routes in order to access free healthcare in the UK.

PHD STUDENTS



The new graduate route will replace the current Doctorate Extension Scheme (DES) open to international students who have completed a PhD in the UK. The new route is a significant improvement on the DES, which only allows PhD graduates to remain in the UK for 12 months after completing their studies.

DEPENDANTS



Graduates whose dependants are already with them in the UK will be allowed to continue sponsoring family members who make an application for further leave at the same time.

POINTS-BASED



The route will be points-based, with the full number of points being awarded for the successful completion of a degree from a UK Higher Education Provider with a track record of compliance.

SWITCHING



Graduates will be able to apply in-country to switch their immigration status to a new visa category if they meet the requirements.

CONDITIONS



There will be no maintenance requirement under this route, nor will applicants need to demonstrate they can speak English to an acceptable standard, as successful completion of a degree in the UK evidences this.

ONE-TIME OFFER



The two or three year period granted will be a one-time, non-extendable leave period. Once leave has expired, graduates will not be able to renew or extend their stay under this route and must apply for a different visa, such as a skilled worker visa, or leave the UK.

NEW RULES: 4 THINGS TO NOTE

The UK's new points-based immigration system presents significant changes to the way skilled migrants can come to the UK to work.

The lowering of the skills and salary thresholds means employers in many sectors, such as retail, hospitality and construction, will be able to sponsor migrant workers in roles that were previously excluded from the scope of sponsorship. Employers will also benefit from quicker end-to-end visa processing times following the scrapping of the Resident Labour Market Test (RLMT) requirement.

Businesses and applicants alike should be aware of how the upcoming changes will affect them from January, and prepare accordingly. With this in mind, here are four important points to note about the new system:

'The lowering of the skills and salary thresholds will benefit employers in many sectors such as retail, hospitality and construction.'

Smith Stone Walters is here to offer up to date, informed advice for employers and individuals on the UK's new immigration rules. Call us today.



1

RE-BRAND

Once the UK's new immigration system goes live, existing Tier 2 (General) and Tier 2 (Intra-Company Transfer) sponsors will automatically be granted a new Skilled Worker licence or Intra-Company Transfer licence, with an expiry date consistent with their current licence, and receive an appropriate allocation of Certificates of Sponsorship (CoS).

2

GOING RATE

Migrants will still need to be paid the higher of the specific salary threshold for their occupation, known as the 'going rate', and the general salary threshold. However, applicants will be able to 'trade' characteristics such as their specific job offer and qualifications against a lower salary.

3

TRADING POINTS

Overseas nationals offered less than the required minimum salary threshold, but no less than £20,480, may still be able to come if they can demonstrate that they have a job offer in a specific shortage occupation, as designated by the MAC, or that they have a PhD relevant to the job.

4

NO CAP

The Home Office has pledged to suspend the current cap on Tier 2 (General) visas, the current route for skilled workers. This will result in there being no limit on the numbers of skilled workers who can come to the UK, and will streamline the overall recruitment process for employers.

NEW APP HOPES TO CLEAR VISA BACKLOG

As UK Visa and Citizenship Application Services (UKVCAS) across the country return to service following the easing of lockdown restrictions, thousands of applicants have been facing difficulties securing an appointment as centres tackle the backlog of cases that have been delayed during the pandemic.

In a bid to clear the backlog of pending cases, the Home Office has announced a temporary solution whereby applicants who have previously applied for a UK visa will be able to avoid attending an appointment at a visa centre and will instead be invited to reuse their biometric data supplied during their previous application.

IDV SMARTPHONE APP

The process involves applicants using a new Identity Verification (IDV) mobile app to submit facial images and supporting information without having to attend an appointment in person.

Eligible customers will be contacted directly and invited to download the app onto their smartphone, where they will be able to log in, upload and submit the required information from their device. The process requires applicants to upload all

mandatory supporting documents and complete an ID verification check, which involves taking a photo of their face and travel documents. Though the app may provide a solution for eligible customers' pending cases, new applicants must continue to wait to secure an appointment at a visa centre to submit their biometric information in person.

If you need help with using the new IDV mobile app or securing a VAC appointment, contact a SSW consultant today.



A NEW SINGLE UK IMMIGRATION SYSTEM

Once Freedom of Movement from the European Union (EU) has ended on 1 January 2021, EU and non-EU citizens will be on an equal footing when it comes to UK immigration rules.

As a result, the new rules represent major changes to EU, EEA and Swiss nationals seeking to enter and stay in the UK long-term. Critically, EU citizens who do not hold settled status will need to obtain a visa if they wish to come to the UK for any activity other than short-term visits.

DIGITAL APPLICATIONS FOR EU CITIZENS

One consolation is the fact that, unlike non-EU applicants, most EU citizens applying for a visa will not need to attend an in-person appointment at a Visa Application Centre (VAC), and will instead be able to provide facial images using a smartphone self-enrolment application form.

This is part of the government's vision to implement a "fully digital end-to-end customer journey" for overseas citizens arriving in the UK to work, study or visit.

The long-term aim is for all visitors and migrants coming to the UK to provide their biometric facial images and fingerprints under a single global immigration system. In practice however, this will undoubtedly take some time to implement, so in the meantime EU nationals should take advantage of a simpler, more convenient application process.

To keep up to date with the latest developments in relation to UK immigration, sign up to Smith Stone Walters' email newsletter, or find us on social media.

DELIVERING IMMIGRATION SOLUTIONS WORLDWIDE

At Smith Stone Walters, moving people across borders is our business. Our team of immigration experts manage and support immigration moves throughout the UK, Europe and the rest of the world. We have spent years refining our global immigration capability, with a carefully selected choice of local partners to meet every client need.

If you need advice or support in reaching your business's global immigration goals, Smith Stone Walters would be delighted to help. Contact us today to discuss your requirements.



INDIA OPENS AIR TRAVEL 'BUBBLES'



With scheduled international passenger flights suspended in India since 23 March due to the coronavirus pandemic, the government is now seeking to restart commercial passenger flights.

Since July, a number of air transport bubble agreements have been negotiated with countries including the United States, France, United Kingdom, the United Arab Emirates, and Germany. Reports also indicate that additional bilateral arrangements are set to be announced in due course.

Where such permissible travel arrangements are put in place, passengers are still advised to adhere closely to both inbound and outbound travel stipulations as set out by India's Ministry of Home Affairs.

Contact Smith Stone Walters for further advice on travelling to India.



BE 'PASSPORT READY' FOR EUROPEAN TRAVEL



British passport holders looking to travel to Europe from 1 January 2021 should be aware of the new passport rules that will apply once the Brexit transition period comes to an end on New Year's Eve this year.

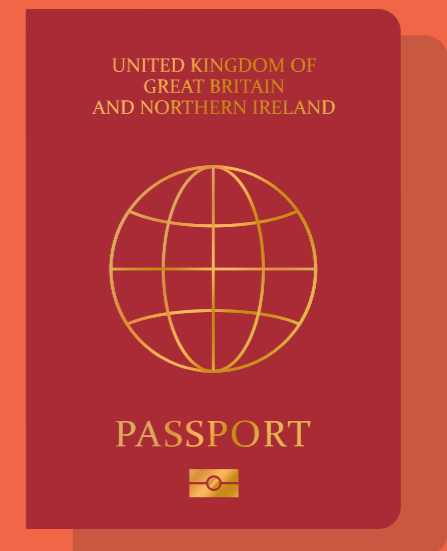
The new rules will require individuals to have at least six months' validity remaining on their adult or child passport when travelling to most countries in Europe, with the exception of Ireland.

Citizens holding the old-style burgundy European Union passports will be able to continue using the passport until it expires. However, if you do not have enough time left on your passport from the date you intend to travel, you will need to renew it first.

If your 2021 plans involve European travel, Smith Stone Walters would urge you to check the expiry date on your passport and familiarise yourself with the entry requirements for your destination countries before booking travel.

For up to date advice on travelling in Europe from January 2021, speak to a SSW consultant.

'Citizens holding the old-style burgundy European Union passports will be able to continue using the passport until it expires.'





AUSTRALIAN ENTRY BAN EXEMPTION: CRITICAL SKILLS

Whilst the blanket ban continues to apply for non-citizens and non-residents seeking to enter Australia, there are a few exemptions to this rule including individuals in critical sectors or with critical skills.

Notwithstanding the very limited number of flights currently available to Australia and the mandatory 14 day quarantine on arrival requirement, individuals (or their employers) can still submit a request for a travel exemption for consideration. The Commissioner of the Australian Border Force will consider granting an exemption if you are a non-citizen and you:

- Have been invited by the Australian Government to assist in the COVID-19 response, or your entry would otherwise be in Australia's national interest
- Are providing critical or specialist medical services
- Are providing critical skills in religious or theology fields
- Have critical skills required to maintain the supply of essential goods and services
- Are delivering services in critical sectors that will aid Australia's economic recovery where no Australian worker is available

Anyone considering applying for an exemption should be prepared to provide appropriate evidence to support the claims outlined in their application. Individuals making requests for travel exemptions do not need to hold a visa, however a valid visa will be required to travel if the request is granted.

'Individuals (or their employers) can still submit a request for a travel exemption for consideration.'

If you have further questions about Australian travel exemptions, the SSW Global Immigration team would be happy to help.



'LET THEM IN' SAYS EUROPEAN COUNCIL



Following a recent review, the European Council has updated the list of third countries for which current restrictions on non-essential travel into the EU should be lifted.

For the latest information on COVID-19 related travel advice, call Smith Stone Walters today.

The Council has recommended that member states should begin to reduce the restrictions at external borders and allow citizens from selected third countries to enter the EU.

Countries currently on the list include Australia, Canada, Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia, Uruguay and China (subject to reciprocity), however, this list will continue to be regularly reviewed and updated accordingly.

In order to determine the countries for which restrictions should be lifted, the Council will assess certain criteria such as the current epidemiological situation and virus containment measures in each country, as well as social and economic considerations. As border restrictions gradually ease and EU member states prepare to open up for non-essential travellers, anyone intending to travel to Europe in the near future should be aware of the latest entry requirements before making travel plans.

RAISING FUNDS - MILE BY MILE



Like millions of other companies worldwide, Smith Stone Walters has been operating remotely since March, with the majority of our staff in London, New York, Hong Kong and Mumbai working from home throughout lockdown. Despite this, we remain fully operational and committed to supporting our clients to achieve their immigration goals during these uncertain times.

At Smith Stone Walters, we take corporate social responsibility very seriously, and we are proud to support the Rainbow Trust, a children's charity that provides vital support for families with seriously ill children. Whilst we have been unable to hold our usual office fundraisers, Team SSW have been thinking of ways we can continue to support the Rainbow Trust whilst keeping our staff safe at home.

In June, we launched the SSW Coffee Club, a new fundraising initiative which invited staff to make a pledge and donate the cost of their weekly coffee to the Rainbow Trust. Whatever staff could afford to give, Smith Stone Walters matched each donation. The scheme ran for two months throughout June and July, and we are delighted to announce our collective efforts raised a grand total of £1,302.

FUNDRAISING FUN CONTINUES...

Hot on the heels of the Coffee Club's success, our next lockdown fundraiser had a slightly more active theme. The 'SSW Active August Weekend' invited staff to set themselves a challenge to run, walk or cycle a set distance over a sunny weekend in August. For each kilometer staff completed as part of their challenge, they donated £1 to the Rainbow Trust and were entered into a prize draw to win a half day off to recover! As before, Smith Stone Walters matched each donation.

We were delighted with the enthusiasm our staff showed towards the new scheme, with a variety of pledges from 10k runs and walks right through to 50k bike rides and even one member of staff completing a marathon! In total, the weekend raised £750 for the Rainbow Trust.

We hope the money we have raised with our lockdown activities will go some way towards helping the Rainbow Trust deliver their vital services to the community at a time where they are needed the most.



WHAT OUR CLIENTS SAY ABOUT US!



We always strive to deliver a WOW service to our clients. As travel restrictions and lockdown measures begin to ease around the globe, our dedicated team have been working hard to provide successful solutions and swift results, getting our clients where they need to be. Here is just some of the feedback we have been proud to receive recently:

'Cami provided a top-notch service. As a result, I would definitely recommend Smith Stone Walters. Thank you Cami and all!'
BY, Electronics corporation

'It's been a very stressful period reapplying for a passport and getting a new vignette, but the SSW team with Sagel and Jenna in particular did a fantastic job.'
NP, Investment bank

'Fantastic communication and very pleasant to work with. I have seen other firms in action as well, Ekaterina and Camelia beat them out hands down. Thank you again, looking forward to working with them in the future.'
RC, Investment bank

'We have used SSW in the past for our visa requirements and I am happy to say that on each occasion we have been very satisfied with your service. The most recent service we received from Yvonne has cemented our faith and confidence in your firm and we will always refer anyone looking for immigration help.'
SC, Private client

'I am very thankful to Prestina for her co-operation, prompt action and timely advice.'
SS, Research institute

'Betty was very kind, supportive, and professional during the whole visa application process. Thank you!'
IC, Investment bank



FOCUS

In this month's Focus, we take a look at the new Hong Kong British National (Overseas) Visa, which will provide a bespoke immigration route for BNO citizens and their dependents to move to the UK to live, work or study.

This new immigration route will be open to applications from January 2021 and will grant successful applicants leave to remain in the UK for five years, providing a 'pathway to citizenship' thereafter.



What is a British National (Overseas)?

British National (Overseas), otherwise known as BNO status is a class of British nationality created for Hong Kong residents when the region was returned to Chinese control in 1997. Residents who successfully applied for the status in the ten-year period leading up to the handover were issued with a British passport displaying their BNO status. It is estimated that around 2.9 million people hold this status and will therefore be eligible to apply to this new UK immigration route.

Why has the UK created the new BNO Visa?

Following the introduction of China's controversial new security law in Hong Kong and the resulting civil unrest, the British government vowed to honour the UK's historic and moral commitment to BNOs by providing a 'pathway to citizenship' for those who do not wish to stay in Hong Kong.

What does the BNO Visa offer?

The BNO Visa will allow successful applicants the right to work and study in the UK for up to five years, after which they will be able to apply for settlement in the UK, providing they have met the continuous residency rules. Following a period of 12 months as a 'settled' resident, BNOs will then be able to make an application for British citizenship.

Those who do not apply for, or are refused 'settled' status after five years will be expected to leave the UK.

Who is eligible to apply?

Citizens of Hong Kong who hold BNO status will be eligible to apply for the BNO visa, along with their immediate family dependents, comprising spouse or partner and children under the age of 18. Applicants must be ordinarily resident in Hong Kong and have no serious criminal convictions or subject to other general grounds for refusal under the UK immigration rules.

What are the costs?

Despite the Home Secretary describing the offer as 'very generous', applicants will still be expected to have the financial capabilities to make this a viable route for them and their families, as there will be no recourse to public funds under this route. Applicants must therefore be able to demonstrate they have the financial resources to accommodate and support themselves in the UK for at least six months.

BNO citizens will be able to apply and pay for either two periods of 30 months' leave, or pay a higher fee to apply for five years' leave from the outset. The application fees are yet to be confirmed, however it has been suggested that applying for five years' leave will be the most cost effective option overall. As well as the application fee, applicants and their dependents will also need to pay the Immigration Health Surcharge at the point of application.

If individuals then wish to apply for settlement in the UK after the five-year period, this will incur additional fees, currently set at £2389 per person, plus a £19.20 biometric enrolment fee, whilst citizenship currently costs £1206 for adult applications.

For many applicants with multiple dependents, the costs involved with securing citizenship for the whole family could prove prohibitive.

How does the application process work?

Applications will be submitted via a digital online process, and in the majority of cases there will be no requirement for applicants to send in physical documents by post or attend an interview. This provides BNOs with the flexibility to submit their application from within Hong Kong, the UK or elsewhere.

Biometric data is required for all applications, with BNO citizens only required to submit facial biometrics and not fingerprint biometrics. Dependents who do not hold BNO status themselves will be required to provide both facial biometrics and fingerprints.

Successful applicants will be issued with a digital visa which will be used to evidence their immigration status in the UK.

Do I need a BNO passport in order to apply?

No. There is no requirement for applicants to hold a valid BNO passport, however if the applicant does hold a valid or expired BNO passport, this should be kept and submitted along with the visa application to evidence BNO status.

If you need advice or assistance with applying for a BNO visa, Smith Stone Walters is here to help. Our team of immigration experts are based in global offices, including Hong Kong and London, and will be happy to guide you through the entire process.



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