

**SMITH
STONE
WALTERS**

Immigration Practice

**THE UK'S NEW
POINTS-BASED
IMMIGRATION
SYSTEM**



31

DEC

2020

ON 31 DECEMBER 2020, AT 11:00PM, FREEDOM OF MOVEMENT BETWEEN THE UNITED KINGDOM AND THE EUROPEAN UNION WILL END AND A NEW POINTS-BASED IMMIGRATION SYSTEM WILL APPLY TO ALL MIGRANTS ENTERING THE UK.

THIS BROCHURE SETS OUT THE FIRST PHASE OF CHANGES BEING INTRODUCED IN 2021 AND WHAT EMPLOYERS NEED TO KNOW.

AT

23:00

ABOUT US

At Smith Stone Walters, we deliver a wide range of visa services, including work and residence permit authorisation, in more than 100 countries worldwide. Managing the immigration process is what we do best.

By partnering with Smith Stone Walters, you will streamline the immigration journey, neutralise risk, and ensure that your organisation is provided with strategic solutions to any immigration based issue.

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SPONSOR LICENCE



From 1 January 2021, if you want to recruit workers from outside the UK's resident labour market, you will need to be a Home Office licenced sponsor. This will enable you to recruit workers from anywhere in the world.

TO MAKE AN APPLICATION FOR A SPONSOR LICENCE, YOUR COMPANY MUST HAVE:

- An established business presence in the UK.
- Human resources systems to comply with your duties as a sponsor.
- A suitable employee to nominate as the 'Authorising Officer'. This person will take on overall responsibility for the Sponsor Licence but can delegate day-to-day immigration administration to a colleague.

HOW TO APPLY

The application process includes:

- Completion of an online application form.
- Submission of supporting corporate documentation such as: latest annual accounts; corporate bank account statement; employers' liability insurance certificate; VAT registration certificate.
- Confirmation that the company maintains robust HR processes and would therefore be able to comply with the strict reporting and monitoring requirements placed on all sponsors.
- Appointment of people within your business to manage the sponsorship process. Chosen personnel will undergo criminality and other security checks.
- Payment of fee. The cost of a Sponsor Licence for small or charitable sponsors is £536. Medium or large sponsors are charged £1,476 upon application (as at 12.2020).

HOME OFFICE VISITS

A Home Office compliance officer may choose to visit you either before or after your licence is granted. This is to ensure that your company is genuinely trading in the UK and has robust HR systems and procedures to comply with your sponsor obligations.

These visits may be prearranged or unannounced.

If you operate a virtual business model, it is highly likely that the Home Office will conduct an on-site visit to your Authorising Officer's physical address before making a decision on your application for a licence.

USEFUL INFORMATION



EMPLOYING FROM THE UK LABOUR MARKET



You do not need to hold a sponsor licence to employ someone from the resident labour market with an existing right to work in the UK. This includes EU citizens with settled or pre-settled status.

MAINTAINING YOUR LICENCE



The Home Office will continually monitor your ability and willingness to comply with your duties. This includes making regular checks with HMRC to ensure you are paying your sponsored workers appropriately.

GAIN SPONSOR APPROVAL BEFORE HIRING



The Sponsor Licence application must be approved by the UK authorities before an employee can apply for a Skilled Worker visa.

CARRY OUT A MOCK AUDIT



Sponsors should carry out regular audits to ensure their HR systems continue to maintain ongoing compliance.

HOME OFFICE PROCESSING TIMES



The Sponsorship Pre-Licence Process has a standard service time of 8 weeks. However, the Home Office offers an enhanced service with a delivery target of 10 working days.

REPORTING SIGNIFICANT CHANGES



Sponsors must inform the Home Office of all significant changes affecting either their business or sponsored workers via the Sponsorship Management System (SMS).

'The Home Office offers an enhanced application processing service with a delivery target of 10 working days.'



SKILLED WORKER ROUTE



The Skilled Worker visa has replaced the Tier 2 (General) visa as the main route for all migrants coming to work in the UK. This new route aims to provide a streamlined, simplified sponsorship process with quicker end-to-end visa processing times.

IN ORDER TO APPLY FOR PERMISSION UNDER THE SKILLED WORKER ROUTE:

- The applicant must hold a confirmed job offer from an approved sponsor.
- The job must meet the required skill and salary levels.
- The applicant must speak English to an acceptable standard.

KEY CHANGES

The main differences between the Tier 2 (General) visa route and the new Skilled Worker route are as follows:

- There is no longer an upper limit on the number of skilled workers who can come to the UK.
- Employers no longer need to undertake a Resident Labour Market Test (RLMT).
- The minimum skills and salary thresholds have been lowered, meaning employers are now able to sponsor migrant workers in a wider range of roles than before.
- Due to more relaxed rules around switching under the new Points-Based System, there is now greater flexibility for migrants to switch in-country to a Skilled Worker visa from another visa type.

NEW SKILLS AND SALARY THRESHOLDS

In order to be eligible to apply under the Skilled Worker route, applicants must hold a job offer that meets the minimum skills and salary thresholds.

- **Skills threshold:** Applicants need to hold a job offer at a skill level of RQF3 or above which is defined as A-Level or equivalent.
- **Salary threshold:** Skilled workers must be paid at least the minimum salary of £20,480, or the going rate (or, in some cases, a proportion of the going rate) for the occupation, whichever is higher.

USEFUL INFORMATION



IRISH CITIZENS OR EU CITIZENS



Irish citizens do not need permission to live and work in the UK. The Skilled Worker route also does not apply to those EU citizens holding immigration permission that allows them to work.

NEW ENTRANT CRITERIA



New entrants to the labour market are able to enter the UK on a salary 30% lower than the going rate for the occupation, as long as the salary is at least £20,480 per annum.

SKILL LEVEL OF THE JOB



Formal qualifications are not required to evidence skills, as it is the skill level of the job the applicant will be doing which is important.

DEPENDANT FAMILY MEMBERS



Skilled workers can bring their family members (partner and children) to the UK and can apply to settle in the UK after 5 years' continuous lawful residence.

GENUINE VACANCY GUARANTEE



By sponsoring a worker, employers are guaranteeing the vacancy they seek to fill is a 'genuine vacancy' and meets the requirements of the Skilled Worker route.

SKILLED WORKER DEFINED COS

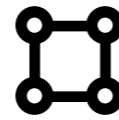


If the person you wish to sponsor will be applying for entry clearance from outside the UK, you must first apply for a Defined Certificate of Sponsorship via your Sponsor Management System account.

'In order to be eligible to apply under the Skilled Worker route, applicants must hold a job offer that meets the minimum skills and salary thresholds.'



POINTS-BASED SYSTEM



From 1 January 2021, all foreign citizens coming to the UK to work must apply for permission in advance using the Skilled Worker route, regardless of where they are from. Visas will be awarded to applicants who meet a specific set of criteria for which they will score points. A minimum of 70 points is required to be granted entry under this route.

HOW IT WORKS

Under the Skilled Worker route, the following **mandatory** criteria must be met:

- The applicant holds a confirmed job offer from an approved sponsor (**20 points**).
- The job is at an appropriate skill level (**20 points**).
- The applicant speaks English (**10 points**).

Points for the above criteria are not tradeable.

TRADEABLE POINTS

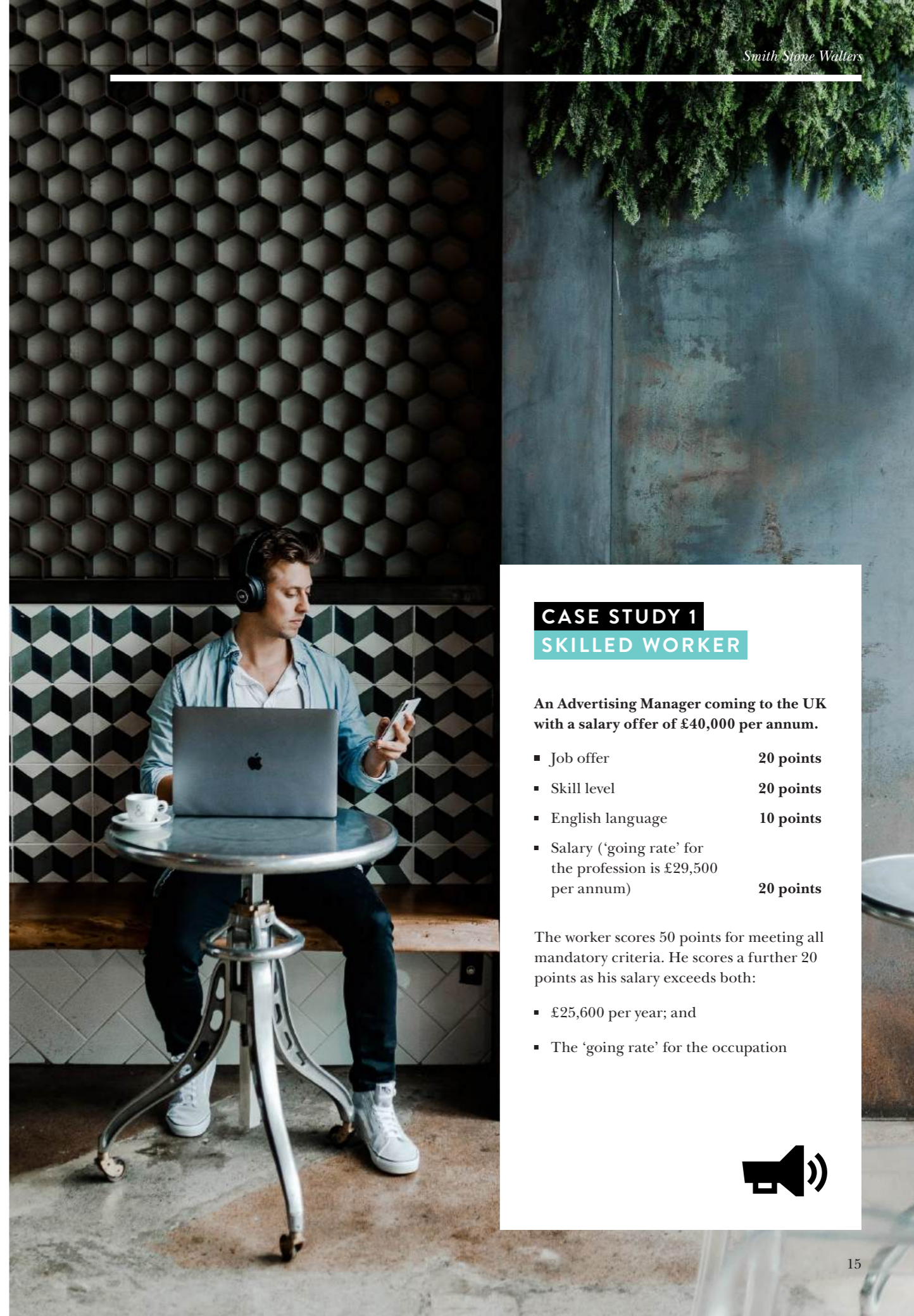
In addition to scoring 50 mandatory points, the applicant must score 20 **'tradeable'** points based on:

- Their salary; and
- other criteria (relevant academic qualifications, being sponsored to work in a shortage occupation or an eligible health or education occupation, or because they are a 'new entrant' to the UK's labour market).

The applicant must score **20 points** against one row in the table below.

Tradeable Points					
Option	Requirement 1		Requirement 2		
Salary only	Salary equals/exceeds £25,600 p.a	+	Equals/exceeds 'going rate' for occupation	=	20 points
Relevant PhD	Applicant holds PhD relevant to job	+	Salary equals/exceeds £23,040 p.a. & 90% of the going rate for occupation	=	20 points
Relevant STEM* PhD	Applicant holds PhD in STEM subject relevant to the job	+	Salary equals/exceeds £20,480 p.a. & 80% of the going rate for occupation	=	20 points
Shortage occupation	Job offered is listed as a shortage occupation	+	Salary equals/exceeds £20,480 p.a. & 80% of 'going rate' for occupation	=	20 points
New entrant	Applicant is a new entrant to labour market	+	Salary equals/exceeds £20,480 p.a. & 70% of 'going rate' for occupation.	=	20 points
Listed health/education occupation	Job offered is listed health or education occupation	+	Salary equals/exceeds £20,480 p.a. & 'going rate' for occupation	=	20 points

* STEM – Science, Technology, Engineering or Mathematics



CASE STUDY 1 SKILLED WORKER

An Advertising Manager coming to the UK with a salary offer of £40,000 per annum.

- Job offer **20 points**
- Skill level **20 points**
- English language **10 points**
- Salary ('going rate' for the profession is £29,500 per annum) **20 points**

The worker scores 50 points for meeting all mandatory criteria. He scores a further 20 points as his salary exceeds both:

- £25,600 per year; and
- The 'going rate' for the occupation



CASE STUDY 2

SHORTAGE OCCUPATION



A Mechanical Engineer coming to the UK with a salary offer of £28,000 per annum.

- Job offer **20 points**
- Skill level **20 points**
- English language **10 points**
- Salary ('going rate' for the profession is £33,400 per annum) **0 points**
- Job in a shortage occupation **20 points**

The worker scores 50 points for meeting all mandatory criteria. Although his salary is below the 'going rate' for his profession, he scores an extra 20 points for having both a job in a shortage occupation and a salary exceeding both:

- £20,480 per year; and
- 80% of the 'going rate' for the occupation.



USEFUL INFORMATION



SHORTAGE OCCUPATION LIST



Occupations on the Shortage Occupation List (SOL) are subject to more favourable immigration arrangements, enabling employers to access a wider pool of suitably skilled workers more quickly.

EU SETTLEMENT SCHEME APPLICATIONS



Applications to the EU Settlement Scheme (EUSS) close on 30 June 2021. After this time, any EU citizen who has not successfully applied will be subject to the new Points-Based Immigration System.

STANDARD OCCUPATIONAL CLASSIFICATION



All jobs have a corresponding Standard Occupational Classification (SOC) code which helps employers determine whether the job meets the requirements of the Skilled Worker route.

SKILL LEVEL REQUIRED



Under the Skilled Worker scheme, the role offered must be at or above the minimum skill level of RQF3 (A-level or equivalent). This should allow employers a greater opportunity to recruit labour from overseas.

CALCULATING A WORKER'S SALARY



Guaranteed allowances, such as accommodation or cost of living, cannot be included when claiming points for salary under the Skilled Worker scheme.

OTHER IMMIGRATION ROUTES



Other immigration routes, such as study and post-study routes, will also be points-based, but will have separate criteria for point scoring.

MOVING YOUR ASSIGNEES TO THE UK



The Intra-Company Transfer (ICT) visa is a temporary immigration route which enables multi-national companies to transfer their overseas employees to a UK subsidiary or connected branch of the business for temporary assignments.



THERE ARE TWO TYPES OF ICT VISA AVAILABLE

THE INTRA-COMPANY TRANSFER ROUTE

For established workers being transferred by the business they work for to do a skilled role in the UK. Depending on their salary, transferees will be able to stay in the UK for up to nine years on this visa type.

THE INTRA-COMPANY GRADUATE TRAINEE ROUTE

For workers who are being transferred by the business they work for to undertake a role in the UK as part of a structured graduate training programme. Transferees can stay in the UK for a cumulative total of five years in any six-year period.

ELIGIBILITY REQUIREMENTS

The ICT immigration route is open to existing skilled employees of the overseas business, who are being transferred to a UK branch or connected entity of that business. In order to meet the eligibility requirements for this route, applicants must:

- Have been employed by the sending business for at least 12 months, or three months for graduate trainees.
- Hold a valid Certificate of Sponsorship (CoS) from a licenced sponsor.
- Meet the minimum salary requirement of £41,500, or £23,000 for graduate trainees.
- Be employed in a role skilled to RQF level 6.
- Show they have enough funds to support themselves and any family members in the UK.

‘Employers should note that the minimum salary requirement for staff moving to the UK on an ICT visa is £41,500.’

SWITCHING

The ICT visa route does not provide a pathway to settlement in the UK. However, under the UK's Points-Based System, the Home Office allows most migrants to apply to switch from one immigration route to another without having to leave the UK.

In a bid to make the new immigration rules more flexible for shorter-term assignments, applicants are no longer required to complete a 12 month 'cooling off' period before switching.

Instead, the new rules state that workers on the Intra-Company Transfer route can stay in the UK for a cumulative total of 5 years in any 6-year period, unless they are a high earner, in which case the maximum period is a cumulative total of 9 years in any 10-year period.

'Applicants will also no longer be required to complete a 12 month 'cooling off' period before switching.'

USEFUL INFORMATION



FLEXIBILITY FOR TEMPORARY ASSIGNMENTS



The ICT route aims to provide global organisations with the flexibility to move their existing employees to the UK to undertake temporary work or training.

SKILL LEVEL REQUIRED



The ICT route is subject to a higher skill threshold than the Skilled Worker route. The ICT route requires applicants to be in roles skilled to RQF6 (degree level or equivalent).

MINIMUM EMPLOYMENT TERM



Applicants will not need to meet the 12-month minimum employment term if their salary in the UK will be £73,900 or more.

VISA APPLICATION FEES



Like the Skilled Worker route, individuals applying for an ICT visa will need to pay an application fee as well as the Immigration Health Surcharge.

LONGER STAYS FOR HIGH EARNERS



Applicants earning £73,900 a year or more will be able to stay in the UK for up to 9 years in any 10 year period on an ICT visa.

NO LIMIT ON ICT APPLICATIONS



The ICT route will not be capped, meaning there will be no limit on the amount of people who can come to the UK as an Intra-Company Transferee.

COST FACTOR

Employers looking to hire skilled EU or non-EU workers from 2021 should be aware of the costs involved with sponsoring migrants under the new Skilled Worker route, especially if they have previously relied on free movement of workers from the EU.



APPLICABLE FEES: EMPLOYER

SPONSORSHIP FEES

When applying for a new Sponsor Licence, businesses will need to pay an application fee. The amount charged will depend on the size and nature of your organisation. Currently, the application fee for a small or charitable organisation is £536 and a higher fee of £1,476 applies for medium or large sponsors. Businesses will also be charged a fee when they:

- Apply to renew an existing Sponsor Licence.
- Apply to add an additional category to a licence e.g. Intra-Company Transfers (ICT).
- Assign each Certificate of Sponsorship (CoS). The cost of issuing a CoS is currently £199.

APPLICABLE FEES: APPLICANT

VISA APPLICATION FEES

The amount an applicant will need to pay when applying for a visa depends on the length of the visa, the job offer held and whether the application is filed from outside the UK or in-country.

The entry visa application fee for a skilled worker is currently £610 for up to three years. This fee doubles to £1,220 where a CoS has been issued for more than three years. The same fee applies for all accompanying dependants (partners and children under 18).

THE IMMIGRATION SKILLS CHARGE (ISC)

Sponsors are required to pay the ISC for each CoS they assign, unless an exemption applies. The full fee is payable up front, and the amount charged will depend on the size of the organisation and the length of employment stated on the CoS. The current fees are as follows:

- Small or charitable sponsors: £364 for the first year of employment, plus £182 for each subsequent six month period.
- Medium or large sponsors: £1,000 for the first year, plus £500 for each additional six month period.

THE IMMIGRATION HEALTH SURCHARGE (IHS)

The Immigration Health Surcharge must be paid for the main applicant plus all accompanying dependants. This fee allows migrants to access free healthcare in the UK for the duration of their stay.

The IHS is currently £624 per person per year. A discounted rate of £470 per year applies for students and their dependants, Youth Mobility visa holders, and anyone under the age of 18.

USEFUL INFORMATION



SPONSORSHIP FEES AND CHARGES



It is an employer's responsibility to pay all sponsorship fees and the Immigration Skills Charge, and these costs cannot be passed onto the applicant.

HEALTH AND CARE VISA



Those applying for a Health and Care visa will be charged a lower application fee and are exempt from paying the Immigration Health Surcharge.

URGENT APPLICATIONS PROCESSING



For urgent applications, Home Office priority processing services are available at an extra cost.

SHORTAGE OCCUPATION FEES



Reduced visa application fees apply if the job offer held is in a shortage occupation.

DISCOUNTED APPLICATION FEES



Costs such as the Sponsor Licence application fee and the Immigration Skills Charge are lower for small or charitable organisations. You're usually a small business if your annual turnover is £10.2 million or less and you have 50 employees or fewer.

MIGRANT WORKER COSTS



Costs such as the visa application fee and the Immigration Health Surcharge are usually covered by the migrant worker, although some employers opt to contribute towards these fees for their employees.

'A large business will incur an Immigration Skills Charge of £5,000 when sponsoring a worker for 5 years.'

CASE STUDY 1 SINGLE APPLICANT



Cost for a medium / large business sponsoring a single applicant for three years:

- Certificate of Sponsorship £199
- Immigration Skills Charge £3,000
- Visa application fee £610
- Immigration Health Surcharge £1,872

Total £5,681

CASE STUDY 2 APPLICANT WITH ONE DEPENDANT



Cost for a medium / large business sponsoring a single applicant with a partner for three years:

- Certificate of Sponsorship £199
- Immigration Skills Charge £3,000
- Visa application fee £1,220
- Immigration Health Surcharge £3,744

Total £8,163

CASE STUDY 3 APPLICANT WITH THREE DEPENDANTS



Cost for a medium / large business sponsoring a single applicant with a partner and two children under the age of 18 for three years:

- Certificate of Sponsorship £199
- Immigration Skills Charge £3,000
- Visa application fee £2,440
- Immigration Health Surcharge £6,564

Total £12,203

OTHER ECONOMIC IMMIGRATION ROUTES



Alongside the Skilled Worker route, the Points-Based System will cater for a range of other specialist work routes including:

GRADUATE ROUTE



Beginning in 2021, the Graduate route will provide international students the opportunity to stay in the UK to work or look for work after they graduate. Undergraduate and masters degree students will be able to stay for two years, whilst PhD students will be able to stay for three years.

GLOBAL TALENT ROUTE



Internationally recognised individuals in science, humanities, engineering, the arts and digital technology are encouraged to use this route to work in the UK. By securing endorsement from an approved and recognised UK body, the most highly skilled talent from overseas can enter the UK without a job offer.

HIGHLY SKILLED WORKERS



During 2021, the Home Office intends to introduce a broader unsponsored route within the Points-Based System to run alongside the employer-led system. This 'capped' route plans to allow a small number of the most highly skilled workers to enter the UK without a job offer.

START-UP AND INNOVATOR



Both these routes are for individuals looking to set up an innovative UK business and are designed to attract entrepreneurial talent from overseas.

YOUTH MOBILITY SCHEME



This scheme allows young people (aged 18-30) to live, work and travel in the UK for up to two years. It only applies to a select group of participating countries and certain types of British nationality including British overseas citizens. Like its predecessor, the Working Holiday scheme, this route is temporary and does not lead to permanent UK residency.

CREATIVE ROUTE



This route, specific to the creative industry, enables artists, entertainers and musicians to enter the UK for short-term contracts/engagements for up to 12 months. Creatives coming to the UK on short-term trips will continue to have the option to enter the UK as visitors.

FRONTIER WORKERS



The introduction of the UK's new immigration system on 1 January 2021 will include a new frontier permit. This permit is available to those EU nationals who were frontier working (i.e. working in the UK but living elsewhere) by 31 December 2020 and wish to retain this status. The permit will be valid for five years for workers and two years for the self-employed. Irish citizens will not need a frontier worker permit but may apply for one if they wish.

GOVERNMENT AUTHORISED EXCHANGE



This route enables migrants to undertake training and work experience in the UK. It is a temporary work route that is aligned to UK growth and international development objectives. It cannot be used to fill genuine vacancies and all placements must be supernumerary.



YOUR WORKPLACE CHECKLIST

With most UK organisations engaging an international workforce, we recommend that you focus on the following key areas and consider how they relate specifically to your business and the recruitment of personnel from 2021.

EXISTING EU POPULATION

In advance of free movement ending, have all your EU employees based in the UK registered for the EU Settlement Scheme?

Support your staff by conducting an audit of your EU population and ensure they are aware of this registration requirement. They have until 30 June 2021 to make an application.

RECRUITMENT POLICY

By lowering the minimum skill level to RQF3 (A level or equivalent), the new Skilled Worker route increases the overseas talent pipeline available to businesses in this country. How will this change influence your organisation's internal approach to recruiting staff from overseas?

Hiring managers should be made aware of the new immigration conditions placed on the recruitment of EU citizens and how these new measures will result in extra pre-employment clearance requirements as well as additional hiring costs.

REMOVAL OF THE RESIDENT LABOUR MARKET TEST

Ensure your internal recruitment teams are aware of this radical change to the sponsorship process. The omission of the Resident Labour Market Test (RLMT) from the new Skilled Worker route will streamline the hiring process of certain overseas nationals by removing at least four weeks from the end-to-end timescale.

BUDGETING

Replacing Freedom of Movement with the UK's Points-Based System will increase the associated costs of recruiting skilled workers from overseas. As this document sets out, the application costs of hiring one EU national under the new immigration system will run into thousands of pounds.

Your business should forecast the additional financial burden these changes are likely to add to the recruitment of staff and ensure all internal stakeholders (e.g. hiring managers) are made aware of the new immigration measures.

SPONSOR LICENCE & COMPLIANCE

As a sponsorship requirement applies to the Skilled Worker route, employers without an existing licence should decide whether it is prudent to apply for one ahead of their next recruitment drive.

Sponsorship forms an integral part of the Points-Based System by supporting compliance with the UK's Immigration Rules. Once licenced, your business should closely monitor internal compliance with your duties as a sponsor. Failure to do so may result in the Home Office taking action against you.

INTERNAL TRAINING & COMMUNICATION

The changes introduced to the UK's new Immigration Rules and any consequential alterations you make to internal recruitment policies should be communicated to staff. Consider undertaking appropriate training sessions for key stakeholders to ensure details of the new rules, costs and timescales involved in recruiting both EU and non-EU citizens from 2021 are understood.

CONTACT US

We are here to guide your company through every step, delivering immigration support and advice that caters specifically to your individual needs.

A stylized world map in light grey with four colored callout boxes: USA (blue), UK (green), IND (teal), and HK (red). Lines connect these boxes to their respective contact information blocks below.

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