

GMS Flash Alert

Immigration Edition

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United Kingdom - Further Details on New Points-Based System

The U.K.'s Home Office published further details of the forthcoming new points-based immigration system on 13 July 2020.¹ The new system will be put in place after the post-Brexit transition period ends to allow employers to sponsor overseas workers coming to the U.K. For prior coverage see GMS [Flash Alert 2020-170](#) (14 April 2020). Applying to European Union (EU) and Swiss nationals from 1 January 2021, the new system will affect a significantly larger population than the non-EU nationals to which the current system applies.

WHY THIS MATTERS

The introduction of the new points-based system will include within its scope EU and Swiss nationals who may be required to secure appropriate work authorisation before they can commence work in the U.K. from 1 January 2021.

Employers seeking to employ overseas nationals ("overseas workers") need to be aware of these changes and make the appropriate arrangements.

Background

In our previous *Flash Alert*,² we addressed changes to skill levels, minimum salary thresholds, and the new graduate immigration route. The U.K. Home Office has now revealed further details relating to work and study routes. These changes include:

- New Sponsor License types;
- Suspension of the cap for skilled workers;
- Abolishment of the Resident Labour Market Test;
- Increase in going salary rates;
- Graduate route introduction;

- Cooling-off period for Intra-Company Transfers;
- Tougher approach to the U.K. criminality thresholds.

The final arrangements for other categories will be publicised in the Immigration Rules and guidance for applicants.

New Sponsor Licences

The U.K. government currently intends to allow applications to begin under the new routes before the end of the transition period on 31 December 2020. Existing Tier 2 (General) and Tier 2 (Intra-Company Transfer) sponsors will automatically be granted a Skilled Worker licence or Intra-Company Transfer licence, with expiry dates matching their existing licences.

Suspension of the Cap

The current limit on the number of Tier 2 (General) visas available (for skilled workers) will be suspended under the new system. There will be no overall cap on the number of skilled workers who can come to the U.K. under the new Skilled Worker route.

Abolishment of the Resident Labour Market Test

The new Skilled Worker route will not require the employer to undertake a Resident Labour Market Test ("RLMT"), however the role must still be a genuine vacancy which meets both the required skill and salary thresholds. The role cannot have been created solely in order to facilitate the immigration of the applicant to the United Kingdom.

Increase in Going Rates

Going salary rates for certain Standard Occupation Classification ("SOC") codes will increase from 1 January 2021. For example, under Appendix J of the Immigration Rules, the going rate for the SOC code 1115 (Chief Executives and Senior Officials) is currently set at £65,100 per annum. This is set to increase to £67,300 per annum.³

Overseas workers will be required to meet the salary threshold or specific going rate for the job, whichever is higher. When the going rate is higher than the salary threshold, overseas workers may still be able to use tradable points, which can be scored for shortage occupations or a PhD in a STEM subject relevant to their role in the U.K., provided they earn at least £20,480 per annum.

Graduate Route

The Graduate route (due to be launched in summer 2021) will allow international students who have completed a degree at a U.K. higher education provider stay in the U.K. for two or three years. During this time, individuals on this route will be entitled to stay and work (or look for work) at any skill level, and to switch into work routes if they find a suitable job and meet the requirements. No sponsorship will be required.

Intra-Company Transfers

The requirements and arrangements for intra-company transfers will remain largely unchanged.

Existing "cooling off" rules governing intra-company transfers meant that anyone who has spent time in this category must wait 12 months before they can apply to return to the U.K. in this category, with some very limited exemptions. The new rules allow intra-company transferees to be in the U.K. for up to five years in any six-year period, except when they qualify as a high earner who can remain in the U.K. for a period of up to nine years. The new rule will create greater flexibility for short- or fixed-term assignments.

Whereas current Tier 2 intra-company transferees are generally restricted to remaining in their category without an option of settlement, the new Intra-Company Transfer route will permit switching into the Skilled Worker route with an option of settlement, provided they meet the qualifying requirements.

Tougher U.K. Criminality Thresholds

The U.K. criminality thresholds for the refusal of entry, permission to remain in the U.K., deportation and exclusion will apply to overseas workers, regardless of whether they are EU or non-EU citizens. Those who seek entry to the U.K. can be refused if:

- they have a conviction with a custodial sentence length of 12 months or more;
- they have committed an offence which caused serious harm;
- they are a persistent offender, who shows a particular disregard for the law;
- their character, conduct or associations mean their presence is not conducive to the public good.

Overseas workers who are already in the U.K. that meet any of these thresholds could be considered for deportation. However, these stricter thresholds will not apply to EU citizens until after the transition period – i.e., from 1 January 2021.

KPMG NOTE

The U.K. Home Office states that the implementation of the new points-based system will be phased, with further details published in due course. It is anticipated that other routes that allow the applicant to work in the U.K. will be managed under the points-based system such as Global Talent, Start-Up and Innovator, Visitors, etc. The recent guidance, however, does not mention or re-state every available category.

EU citizens and their families who enter the U.K. before 1 January 2021, can continue to benefit from freedom of movement but they will have to apply under the EU Settlement Scheme by 30 June 2021, to maintain their status.

Employers who wish to bring overseas workers (both EU and non-EU nationals) to the U.K. after 31 December 2020, will likely need to sponsor them under the new system. Employers will need to hold a valid sponsor licence to sponsor overseas workers and are encouraged to obtain a licence if they do not already hold one.

Further details and guidance will be published by the U.K. Home Office in due course.

FOOTNOTES:

1 See: <https://www.gov.uk/government/publications/uk-points-based-immigration-system-further-details-statement>.

2 For prior coverage of the points-based system, see GMS *Flash Alert 2020-170*, 14 April 2020.

3 Salary thresholds for some occupations may change between now and the time that the new route is launched.

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in the United Kingdom:

The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment and compliance strategies.



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* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.

The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom.

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