



Immigration challenges for employers

Few people acknowledge the implications of the UK Government's measures to reduce legal migration to the UK on employers.

The UK government is intent on reversing a recent increase in net migration figures. The rise, which appears to have reached its peak, – is partly fuelled by skills gaps, with the biggest increase in work visas seen in the healthcare sector. The year ending September 2023 saw a nine percent increase in Skilled Worker visas, with 66,322 issued (plus an additional 50,874 for dependent family members) and a 135% increase in Health and Care Worker visas (up to 143,990 plus 173,896 dependants). Aside from other measures, such as restricting postgraduate student family members and ending the Ukraine Family Scheme, below are the main measures that will affect employers and their employees.

Carers and senior carers

From 11 March 2024, overseas care workers will no longer be able to bring dependent family members to the UK, and social care providers who wish to sponsor Health and Care worker visas will be regulated by the Care Quality Commission (CQC). This will include those in the UK on immigration routes which permit dependants to switch into these regulated care roles.

The affected occupation codes are 6145 care workers and home carers and 6146 senior care workers. Those already on this immigration route will still be able to bring dependants to the UK and remain with them, including when extending their visa, changing employer within these SOC codes and applying to settle in the UK.

Care providers who were sponsoring workers in exclusively non-regulated activities, and therefore not required to be registered with the CQC, should be able to continue to sponsor these workers, including for visa extensions, on those terms, although they will not be able to sponsor new ones.

Skilled worker salary thresholds

Employers sponsoring anyone on a Skilled Worker visa must ensure the position pays either the minimum salary threshold for that particular occupation code, or an hourly rate of £10.75 – whichever is higher.

HR teams should be aware that the government intends to increase the general salary threshold for sponsoring a skilled worker from

£26,200 per annum to £38,700 per annum on 4 April. So, for example, an employer sponsoring a public relations professional from that date would have to pay them a minimum of the salary threshold, which will be £38,700 rather than the current going rate of £26,300 for that occupation code. This change will affect most occupation codes.

Health and Care visa occupations and national pay scale occupations in education will be exempt from the changes to the skilled worker minimum salary threshold.

Skilled workers already on the immigration route will be able to extend, change sponsor and settle without needing to meet the new minimum salary threshold requirement. However, they will “need to meet the updated 25th percentiles using the latest pay data” when they make their next applications, meaning the current £26,200 threshold will progress at the same rate their earnings may rise, rather than leaping up to £38,700 (which is the median salary for all jobs at the skill level of RQF3).

Skilled worker going rates

An even more significant development for most sponsored skilled worker roles will be the simultaneous increase in their going rates. The UK government currently periodically prescribes going rates for occupations using the 25th percentile of salaries for that role according to the Annual Survey of Hours and Earnings (ASHE) which is carried out by the Office of National Statistics. From 4th April this year, the government has decided to use the 50th percentile salary to prescribe going rates to occupation codes according to the 2023 ASHE. For example, HR managers and directors should currently be paid the present going rate of £36,500, but the new median going rate according to the provisional ASHE 2023 data would be £49,409. Employers would therefore have to match this increased figure as it's higher than the new £38,700 salary threshold.

Shortage Occupation List

The Home Secretary has commissioned the Migration Advisory Committee to undertake a review of the Shortage Occupation List (SOL), which cuts the expense for employers sponsoring skilled workers in order to help fill dire skills shortages. The current SOL will remain in place until April, when it will relaunch as the “Immigration Salary List” (ISL).

When the SOL goes, employers will no longer be able to sponsor migrant workers in listed shortage occupations at 20% below the usual going rates.

These changes will have a drastic effect on sectors that rely on shortage occupations, particularly organisations based outside of London, where wages are significantly lower. A mechanical engineer can currently be sponsored on a minimum salary of £26,400 as it is listed on the SOL. The new median going rate without the 20% SOL discount will be £42,463, a significantly higher minimum salary. Similarly, there is a shortage of programmers and software developers in the UK. Currently, they can be sponsored as skilled workers if they earn £27,200. From 4 April, new programmers applying for the visa would have to be paid a going rate based on the 2023 survey median of £49,430.

It is possible that occupations on the new ISL list will not have to pay the same median going rate as other Skilled Worker visas will. The 20% discount on the going rate will be removed from April, but one would hope that the government-commissioned review of what should replace it includes some concessions, otherwise there is no point to the new rebranded list.

The Migration Advisory Committee is due to carry out an in-depth review later this year, involving engagement with stakeholders and a call for evidence from employers.

At present, the only work asylum seekers may do (and only if they have been waiting over 12 months for a decision through no fault of their own) are jobs on the SOL. With tens of thousands of asylum seekers and their dependants stuck in limbo, last year's review of the SOL recommended allowing them to fill any job vacancies, or at the very least, any skilled role if the SOL is scrapped. However, despite the big windfall for the UK economy that would likely come about, there is already pressure building up from anti-immigration voices in the Conservative Party to deny asylum seekers the ability to work at all. It will be interesting to see what the committee recommends this time round and whether the Government takes its full advice.

The Government has estimated that all the above changes to the cost of sponsoring workers would have deterred about 13% of those granted a Skilled Worker visa this year. There is no estimate of the cost to businesses.

Graduate visas

The Home Secretary has also announced that the Graduate visa route which allows international graduates to live and work in the UK for two years (three for people completing doctoral courses) will be reviewed, as well as preventing non research postgraduates from



bringing family to the UK.

The Home Secretary has said he will set out the full parameters of a Migration Advisory Committee review of the Graduate visa route “to ensure it works in the best interests of the UK and to ensure steps are being taken to prevent abuse.” The Government expects that the review will continue until late 2024.

The Graduate visa is useful for employers who want to employ international students once they finish their UK degrees without the commitments or bureaucracy of sponsoring them. The higher education sector regards it an attractive prospect for ambitious international students who may want a springboard for a work immigration route to stay in the UK.

Family visa minimum income requirements

In a change that will affect British and settled workers who want partners to live abroad with them, the Home Secretary announced that the minimum income British and settled workers must earn to sponsor a partner on a family visa would practically double, rising from £18,600 to £38,700 per annum in the Spring.

Following a public outcry, this will now happen in stages; the minimum income requirement will initially rise to £29,000 from 11 April 2024, then again in the Autumn to £34,500 and then finally in Spring 2025 to £38,700. There will no longer be a separate income requirement for children on family visas.

Those who already have a family visa on the five-year partner route, or who apply before the minimum income requirement is raised, will continue to have their applications assessed against the current income requirement of £18,600 and will not need to meet the increased threshold. This is also the case for children seeking to accompany parents who already have permission or apply for permission before the rules change. Anyone granted a fiancé visa before the minimum income requirement is raised will still be assessed against the current income requirement when they come to apply for a family visa in the five-year partner route.

Those already in the UK on a different route who apply to switch to the five-year partner route after the minimum income requirement has been increased will be subject to the new income requirement.

The Government does envisage human rights challenges and insists that applicants will still be able to use savings to meet the minimum income requirement and that exceptional circumstances will be considered.

Immigration Health Surcharge hike

On 6 February, the Immigration Health Surcharge (IHS) increased from £624 to £1,035 per year and from £470 to £776 per year for students, dependents, Youth Mobility Scheme applicants and children under 18.