



# GMS Flash Alert

## Immigration Edition

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# United Kingdom – Statement of Changes for New Immigration System

The U.K. government issued the much-awaited Statement of Changes to the immigration rules on 22 October 2020. These represent a substantial overhaul of the existing U.K. immigration system.<sup>1</sup>

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## WHY THIS MATTERS

Many of the changes will come into force from 9:00am local time on 1 December 2020, in preparation for the ending of freedom of movement for European Union (EU)/European Economic Area (EEA) nationals which occurs at 11:00pm local time on 31 December 2020. From 1 January 2021, all nationals (excluding British and Irish nationals) will be subject to immigration controls and subject to the new immigration system.

Employers who wish to employ migrant workers will need to prepare for the new immigration system, and follow the additional restrictions and requirements surrounding the employment of EEA nationals.

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## Highlights of Proposals

### Skilled Workers

This route will replace the existing Tier 2 (General) category. It will be much easier and more flexible to switch into this route from a wide range of other immigration categories. Importantly, Tier 2 (ICT) visa holders will be able to switch into this category within the United Kingdom.

The cooling-off period has been removed and there is no cap on the amount of time an individual can spend under this

immigration route. The Resident Labour Market Test requirement has also been removed under the new immigration system.

Under this route, the skills threshold has been reduced from RQF Level 6 (degree level) to RQF Level 3 (A level); hence, the jobs which are now at RQF Level 3 (A level) and above will be suitable for sponsorship.

The English language requirement will continue to apply under this route.

Additionally, the gross annual salary threshold has been amended and it is now more flexible in the way it can be calculated. It starts from £20,480 (except for some very specific roles in health-care) and is dependent on age, experience, qualifications, and job role.

The route continues to lead to Indefinite Leave to Remain.

## **Intra-Company Transfer**

This route will replace the existing Tier 2 (Intra-Company Transfer) category and the skills threshold remains at or above RQF Level 6 (degree level). Previously, making an application for this category in the U.K. was very restricted. However, it is now possible to 'switch' into this route within the U.K. from a wide range of other immigration categories.

This does not lead to permanent settlement, known as Indefinite Leave to Remain, under the new immigration system. However, applicants will be able to switch to other categories such as Skilled Worker, which can lead to Indefinite Leave to Remain.

The cooling-off period has been amended to limit the total stay under this category to five years in any six-year period, or nine years in any 10-year period for 'high earners'.

The 'high earner' gross annual salary threshold has been reduced to £73,900. However, the standard salary threshold remains at £41,500 and £23,000 for the Graduate Trainees category. Guaranteed salary and allowances can be taken into account; however, guarantee bonuses can no longer be included to meet the aforementioned salary threshold.

## **Hong Kong British Nationals (Overseas)**

There are two routes which will come into force on 31 January 2021:

- The BN(O) Status Holder route is for BN(O) citizens ordinarily resident in Hong Kong or the U.K. and their dependent family members; and
- The BN(O) Household Member route is for adult children, born on or after 1 July 1997, of BN(O) citizens, and their dependent family members, provided they form part of the same household as the BN(O) citizen.

Please refer to our previous GMS [Flash Alert](#) (2020-331, 28 July 2020) for more information.

## **Global Talent, Start-Up, and Innovator**

The Global Talent route is for individuals, aged 18 or over, who can prove that they have exceptional talent or exceptional promise in the fields of science, engineering, humanities, medicine, digital technology, or arts and culture.

The Statement of Changes includes a change to the criteria for consideration of senior appointments; in addition, the definition of the types of academic and research roles that would qualify under this route is being expanded.

There were no changes to the Start Up visa and Innovator visa, apart from taking advantage of the new English language requirements.

## **T5 Temporary Workers**

San Marino will be added to the Youth Mobility scheme country list as a country without Deemed Sponsorship Status with an allocation of 1,000 places. The Republic of Korea is being added to the list of countries where 'invitation to apply' arrangements apply.

The maintenance fund has been increased from £1,890 to £2,530 and the funds must have been held with a regulated financial institution for the minimum of 28 days.

## **Service Providers from Switzerland**

This is a new route for eligible employers, companies, or self-employed individuals to execute contracts with a party based in the U.K. for a period not exceeding 90 days per calendar year. The contract must have been signed and commenced on or before the specified date. It is the responsibility of the employer or company or self-employed individual, to make sure that the total number of days worked by its employees, or the self-employed individual, does not exceed 90 in each calendar year. The 90-day limitation applies irrespective of the number of eligible contracts that are held.

This route is expected to run for five years only, until 31 December 2025. It does not allow dependants to accompany or join the Service Provider from Switzerland to/in the U.K., and it is open for Swiss nationals or non-Swiss nationals who are integrated fully and legally into the labour market of Switzerland.

Applicants will not be able to have access to public funds, have access to medical treatment, be able to study in the U.K., enter into marriage/civil partnership, or submit a notice of marriage/civil partnership.

## **Visitors**

This route is for an individual who wants to visit the U.K. for a temporary period (usually up to six months) for the purpose of tourism, visiting friends or family, carrying out a permitted business activity, undertaking a short course of study, etc.

Many of the existing rules and restrictions surrounding visitors, especially business visitors, have been transferred to the new immigration system. However, visitors will now be permitted to study at an accredited institution for up to six months. There is also some relaxation in the rules concerning sports-persons and academics.

Academics may also undertake particular activities as visitors and remain in the U.K. for up to 12 months at a time. The cap on most other type of visitors staying in the U.K. will be remain at six months at a time.

## **English Language Requirement**

The new immigration system provides applicants with more flexibility to meet the English language requirement.

Malta will be added as a majority English speaking country.

Applicants are no longer required to prove that they meet the English language requirement if they have already proven the required level in their previous successful application.

Applicants applying under the Skilled Worker route to work as doctors, dentists, nurses, or midwives will also see a change in the way they can meet the requirement.

Student, Skilled Worker, Start-Up, or Innovator applicants will be able to meet the requirement through holding a GCSE, A level, Scottish National Qualification at level 4 or 5 or, Scottish Higher or Advanced Higher, in English (language or literature).

There are some changes in the way the requirement can be met for the Student route. For example, the higher education provider with a track record of compliance can now assess students' English language abilities to level B2 or above.

## Finance Requirement

This requirement replaces what was previously referred to as the 'maintenance' requirement.

For categories that allow sponsorship, for example Skilled Worker, Intra-Company Transfer, or Student, employers and educational institutions will be able to 'certify' the financial requirement as they currently do.

Applicants may also rely on a wider range of accounts provided they can access the funds immediately, as well as rely on a third party, who is not their partner, to meet this requirement.

## Additional Changes

The following categories were the subject of previous Home Office announcements, but are not covered under the latest Statement of Changes.

### Frontier Worker Permit

This route will enable EU, EEA, or Swiss citizens who wish to continue to work from the U.K. beyond the transitional period so that they are not subject to the aforementioned new immigration system. A frontier worker has been defined as an individual who is currently employed or self-employed in the U.K. but residing elsewhere.

The U.K. government will launch the frontier worker permit later this year.

Please refer to our previous GMS [Flash Alert](#) (2020-414, 29 September 2020) for detailed information.

### Graduate Visa

In summer 2021, the Graduate visa will be launched to allow students to stay for up to two years after they have completed a degree at a U.K. Higher Education Provider and work in any position at any salary. PhD graduates will be able to obtain a three-year visa under this route.

Please refer to our previous [Flash Alert](#) (2019-144, 16 September 2019) for more information.

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## KPMG NOTE

The Statement of Changes heralds a new phase in the U.K.'s immigration system, ending free movement. The proposed new rules, to some extent, have been simplified by the condensing of rules which were previously scattered

## KPMG NOTE continued:

across numerous paragraphs, appendices, and additional guidance documents.

The new immigration categories replace the existing and complex Tier 2, 4, and 5 categories. This will bring more flexibility to applicants and their employers, which should be welcome news for businesses. Nevertheless, the employer and educational providers' sponsorship system remains in place, with much burden placed on sponsors' compliance, especially given the inclusion of EEA nationals into the new immigration system. Costs associated with immigration applications remain high, so employers should continue to monitor these and take them into account when considering their mobility and recruitment needs.

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## FOOTNOTES:

1 For the Statement of Changes in Immigration Rules, see: <https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-813-22-october-2020> .

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## Contact us

For additional information or assistance, please contact your local GMS or People Services professional\* or the following professional 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.*

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