

The UK's Points-Based Immigration System – July 2020

On the 31st December, freedom of movement between the EU and the UK will stop as the transition period comes to an end. This week, the Government published a policy paper outlining how the UK's new points-based immigration system will work. The new immigration routes will be open by January 2021, unless stated otherwise. The Government will also be confirming the final details of the points-based system later in the year, including guidance for applicants, immigration rules and secondary legislation.

Those based in the Common Travel Area (UK, Ireland, Isle of Man, Guernsey and Jersey) will be able to enter the, live and work in the UK as they do now.

Requirements

All EU and non-EU citizens wishing to live and work in the UK from 1st January 2021 on a long term basis will need to demonstrate their right to be in the UK and the entitlements they have, including demonstrating their right to work in the UK. Those who are entitled to work in the UK will be able to use an online service to demonstrate their right to work.

Those looking to live and work in the UK must also satisfy the English language requirement and be able to demonstrate they have the ability required for each visa route and job role. There are a variety of ways applicants can show they meet the English language requirement:

- Being a national of a majority English speaking country
- Having an academic degree taught in English
- Passing a secure English language test
- Having shown they meet the required level in a previous successful immigration application

Fees

Application fees will continue under the new system and will apply to both EU and non-EU citizens. The Immigration Skills Charge¹ will continue in the same way, however the Government intend to remove the current exemption for employers of EU, EEA and Swiss citizens.

Creative Visa Route

The Government recognises the importance of those working in the creative industries and continuing to attract top international talent from the creative industries under the new immigration system. The existing Temporary Worker Visa (Tier 5) route, which allows creative workers who are non-visa nationals with a valid certificate of sponsorship, to enter the UK to work for up to a maximum period of three months without prior entry clearance will continue under the new immigration system.

This route is for those working in the creative industries who are working in the UK on short-term contracts or engagements for up to 12 months. Applicants will also have the option to come to the UK as visitors, as they can under the current immigration system.

The Government state that they will continue to work with the creative sector to reform and simplify the offer for creative industry applicants coming to the UK on a short-term basis.

¹ This is a charge paid by a UK employer for each skilled migrant worker they employ through the Skilled Worker and Intra-Company Transfer routes.

The table below shows the conditions and requirements for the creative visa route.

Table 16: Creative route conditions and requirements

| Requirements | | Conditions and restrictions | |
|--|-----|---------------------------------|-----|
| English language | No | Capped | No |
| Application fee | Yes | Switching – employers | Yes |
| Immigration Skills Charge | No | Switching – routes (in country) | Yes |
| Immigration Health Surcharge | Yes | Settlement | No |
| Biometrics | Yes | Dependants | Yes |
| Maintenance | Yes | Access to public funds | No |
| | | Supplementary work | Yes |
| <p>* Before assigning a Certificate of Sponsorship, a sponsor must ensure they comply with their relevant Code of Practice (as per Appendix J of the Immigration Rules) for the occupation (where one exists). Where there is no Code of Practice, the sponsor/employer must be satisfied the migrant worker has the unique attributes and skills to fill the post and they are 'internationally recognised/established' in their field.</p> | | | |

Skilled Worker Route

In order to meet the mandatory criteria for the new Skilled Worker route, applicants must:

- Have a job offer from a licensed sponsor
- This job must be at or above the minimum skill level: RQF3 level or equivalent (A-level or equivalent qualification)
- Be able to speak English to an acceptable standard

Meeting these criteria will earn applicants 50 points. A further 20 'tradeable' points must be obtained through a combination of points for salary, a job in the shortage occupation list or relevant PhD. Applicants will be awarded an extra 20 points if their salary is higher than the general salary threshold (£25,600) or the 'going rate' for their particular job. Applicants can also obtain the extra points needed if they are paid less than the general salary threshold, however they do need to be paid at least £20,480.

Sponsorship of Skilled Workers

A sponsorship requirement will apply to the Skilled Worker route and some other specialised worker routes and will apply to EU and non-EU citizens. Sponsors must undergo certain checks for most work routes, however specific requirements vary by route.

Under the new Skilled Worker route, employers will not be required to undertake a Resident Labour Market Test. Although employers must ensure that they are filling a genuine vacancy that meets the skill and salary threshold of the new route. Roles cannot be created solely for a specific migrant to the UK.

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 under the new immigration system.

Highly Skilled Workers

The Government will also be creating a broader unsponsored route; however this will not open on 1st January 2021 and the Government are yet to set out the full details on their plans for this route yet.

Global Talent Visa

In February this year, the Government announced the Global Talent Visa, which will replace the Tier 1 (Exceptional Talent) route for talented and promising individuals in the fields of science, digital technology, and arts and culture (including film and TV) wishing to work in the UK. This reform will also remove the cap and add in UK Research and Innovation as an organisation who can assess applications.

There are no changes being made to the criteria themselves or how to apply for a Tier 1 (Exceptional Talent) visa. These changes are being made in order to simplify the existing immigration rules and make them more accessible. People from the film and TV industry applying for a visa through this route should continue as normal. These changes will not impact those from the film and TV industry wishing to apply for a Tier 1 (Exceptional Talent) visa.

A full explanation on the new Global Talent category, can be found [here](#).