

Immigration Update

April 2021

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Veristat specialises in providing immigration advice, support and other compliance services to employers and education providers. We also support individuals applying for leave to enter/remain in the UK.



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Introduction

We appreciate this continues to be an exceedingly difficult time for employers and education providers in light of the pandemic. Please feel free to contact us if you need any advice or support.

UKVI have now introduced their new sponsorship system based around the previous Points Based System and its principles but with several significant changes. Now is the time to familiarise yourself with the new system and we are happy to assist through training delivered on your premises or remotely via Microsoft teams or zoom. We also continue to help Employers or Education providers who previously did not require a sponsorship licence but who, following the changes will now need to apply for a licence - if you are in this position and need any assistance please do not hesitate to get in touch.

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Working in the UK

Updated guidance of Right to Work checks

The Home Office (UKVI) have updated their guidance for employers on carrying out right to work checks. The most significant amendments have been made to the further guidance on right to work checks for EEA and Swiss nationals during the grace period (1 January – 30 June 2021).

Employers are not expected to differentiate between EEA nationals who arrived before the end of the transition period (31 December 2020) and those arriving after in the grace period from 1 January to 30 June 2021.

The Home Office (UKVI) recognise that employers may wish to ensure the stability of their workforce during the grace period and are able to provide help and support to prospective and existing employees to obtain the immigration status they need beyond 30 June 2021. Employers may now therefore invite those who already have status under the EU Settlement Scheme (EUSS), or status under the points-based immigration system, to evidence their right to work using the Home Office online service.

Employers **cannot** insist that EEA nationals use the online service or discriminate against those who wish to use their passport or national identity card during the grace period.

There is no mandatory requirement for retrospective checks to be undertaken on EEA nationals who were employed on or before 30 June 2021. Employers will maintain a continuous statutory excuse against a civil penalty in the event of illegal working if the initial right to work check was undertaken in line with right to work legislation and in line with the guidance.

Employers who choose to carry out retrospective checks must ensure they do so in a non-discriminatory manner. The 'Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working' provides practical guidance on how to avoid unlawful discrimination when employing individuals and conducting right to work checks.

Right to work checks will change from 1 July 2021, and all EEA nationals will be required to demonstrate they have a right to work through evidence of their immigration status, rather than their nationality, using the online service (apart from a small number of exceptions). New guidance on how to conduct right to work checks on EEA nationals from 1 July will be provided in advance of this date.

The latest guidance for employers on Right to Work checks can be viewed [here](#).

The information on EU, EEA and Swiss citizens' right to work in the UK has also been updated and can be viewed [here](#).

<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>

Keeping records for sponsorship (Appendix D updated)

The Home Office (UKVI) have updated the guide to the sponsorship documents that businesses and educational institutions must keep.

The key change that has been made is that Part 2: has been substantially rewritten to clarify the requirements for Worker and Temporary Worker sponsors to retain evidence of recruitment activity. This now separates the evidence that must be kept if a formal resident labour market test is required and when it is not required.

If you are sponsoring a worker on a route that does not require a formal resident labour market test, or the role was otherwise exempt from the test, you must still retain evidence of any recruitment activity you have undertaken. Even when a formal resident labour market test is not required, sponsors may still advertise the role to ensure that they have recruited the best person for the role.

If you advertised the role, you must retain **all** of the following:

- Details of any advertisements you placed, including:
 - a screenshot, printout or photocopy of the advert, or a record of the text of the advert; and
 - information about where the job was advertised (for example, website address), and for how long (*although please note that if you are not required to advertise the role, there is no specified length that you must advertise a vacancy for*)
- A record of the number of people who applied for the job, and the number of people shortlisted for interview or for other stages of the recruitment process.
- At least one other item of evidence or information which shows the process you used to identify the most suitable candidate – examples include but are not limited to:
 - a copy or summary of the interview notes for the successful candidate
 - a list of common interview questions used for all candidates as part of your selection process
 - brief notes on why the successful candidate was selected and why other candidates were rejected
 - information about any scoring or grading process you used to identify the successful candidate

You do not need to retain application forms, CVs, interview notes or any other personal data relating to unsuccessful candidates.

There is no specified minimum number of adverts you must place, or prescribed method of advertising. Where you placed more than one advert, it is recommended that you retain evidence of all adverts placed.

If you did not advertise the role, you must, if asked, be able to explain (and, where practicable, provide evidence of) how you identified the worker was suitable – examples include, but are not limited to, the following:

- you identified the worker through a university milk round – you should retain evidence of the milk round as described in [Section A](#), paragraph (h) above
- the worker was already legally working for you on another immigration route and you established they were suitable for the role through their previous performance
- the worker applied to you outside of a formal advertising campaign (made a 'speculative' application) and you were satisfied (for example, by interviewing them and/or checking references or qualifications) they had the necessary skills and experience to do the job

Other changes that have been made are as follows:

- A new paragraph on data protection obligations, with a link to the Information Commissioner's Office website, has been added to the 'Introduction' section.
- Part 3: former sub-paragraph (d) (on sport's governing body endorsement letters) has been deleted, as this is now covered in Part 2 of the document.

Appendix D: guidance for sponsors on keeping documents can be viewed [here](#).

<https://www.gov.uk/government/publications/keep-records-for-sponsorship-appendix-d>

Skilled Worker visa: eligible occupations

The Home Office (UKVI) have published an updated list of jobs which are eligible for the Skilled Worker visa to include fishing and other elementary agriculture occupations not elsewhere classified to the list. The updated list can be viewed [here](#).

If you cannot find the job on the list, it is advisable to first try searching for similar job titles or the occupation code instead and use full words where possible.

If you do not know the job's occupation (SOC) code, you can search for the job using the ONS occupation coding tool [here](#).

<https://www.gov.uk/government/publications/skilled-worker-visa-eligible-occupations>

https://onsdigital.github.io/dp-classification-tools/standard-occupational-classification/ONS_SOC_occupation_coding_tool.html

Changes to the Immigration Rules: Skilled Worker Route

Proposed amendments have been made to the Skilled Worker route, as part of the recent changes to the Immigration Rules, which have been laid before Parliament. The full Statement of Changes and explanatory memorandums can be viewed [here](#).

The proposed changes to the Skilled Worker route are as follows:

- Changes are being made to the criteria for “new entrants” as a result of the introduction of the new Graduate route. The current criteria includes those individuals whose last permission was as a Student and was within the last two years. This provision is being expanded to also include previously holding permission as a Graduate within the last two years.
- A change is being made to the requirement for the applicant's most recent permission to be as a Student (or Graduate), so that “most recent permission” does not include permission as a visitor. This prevents applicants inadvertently disqualifying themselves as new entrants by making short visits to the UK.
- The minimal hourly rate is being increased to £10.10 (which equates to the £20,480 minimum floor for a 39-hour week) to safeguard against sponsors requiring their employees to work long hours, to compensate for lower pay rates in meeting the minimum salary floor. A transitional arrangement is also being included so this change does not apply to Skilled Workers who are already in the route and working in jobs paying less than £10.10 per hour, to ensure they do not lose their jobs as a result of this change.
- When the Skilled Worker route was introduced on 1 December 2020, the Government accepted the MAC's recommendations to change the data source used for identifying “going rates” for several occupations, which resulted in a significant increase for the following occupations: Physical scientist (2113), Natural and social science professionals not elsewhere classified (2119), and Higher education teaching professionals (2311). A transitional arrangement is being introduced for Tier 2 (General) migrants who continue to be sponsored in these occupations, to exempt them from these higher going rates when they apply to extend their permission or settle under the Skilled Worker rules. The previous “going rates” will continue to apply in these cases, for applications made before 1 December 2026.
- A change is being made to salary reductions in Part 9 of the Immigration Rules, to prevent sponsors reducing their Skilled Workers' salaries below the level of tradable points which have been assessed and awarded by the Home Office. If the sponsor wishes to reduce a salary on the basis the Skilled Worker can offset the reduced salary by relying on a different set of tradable points, a new application will be needed. This ensures the new points are assessed by the Home Office and the Skilled Worker continues to meet the requirements of the route.

<https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1248-4-march-2021>

Changes to the Immigration Rules: Other Worker Routes

Changes to the Immigration Rules have been laid before Parliament, including the following amendments to Worker routes:

- In relation to the Innovator route, a requirement has been added that applicants must be the sole founder or an instrumental member of the founding team of the business for which they have been endorsed by an endorsing body.
- In relation to the Intra-Company route, a transitional provision is being reinstated to exempt Intra-Company workers who have been in Intra-Company routes since before 6 April 2011 from the maximum time limits that apply in the Intra-Company routes. Eligible workers can extend their permission for up to five years with each application.
- In relation to the Global Talent and Start-up routes, the requirement for dependants of Global Talent and Start-up applicants to provide written consent to their application from a Government or international scholarship agency has been removed, as this should only apply to main applicants.
- In relation to the T5 (Temporary Worker) route, amendments have been made to replace the requirement for a Certificate of Sponsorship (CoS) with a requirement for persons applying from countries or territories without Deemed Sponsorship Status to produce evidence of sponsorship. Furthermore, the time within which these applicants must obtain evidence of sponsorship before applying has been extended from three to six months.
- A change has been made to Appendix Youth Mobility Scheme to update the allocations of places available for persons applying from each country/territory with a youth mobility agreement with the UK.
- In relation to the relation to T5 (Temporary Worker) Creative category, a new rule has been added to allow migrants and their sponsors to 'stop the clock' by counting time spent within the UK. This is because under the current system, any migrant working in the UK within the creative sector, must have no more than 14 days between paid engagements.

The full statement of changes and explanatory memorandum can be viewed [here](#).

<https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1248-4-march-2021>

Sponsor change of circumstances form

The Home Office (UKVI) have published an updated interactive form which sponsors can use when they don't have access to the Sponsorship Management System (SMS) to appoint a new level 1 user. The updated form can be viewed [here](#).

<https://www.gov.uk/government/publications/sponsor-change-of-circumstances-form>

Shortage Occupation List (SOL) – occupations added

Modern foreign language teachers and some additional health and care roles have been added to the list of shortage occupations. Further information can be viewed [here](#).

The health and care roles that have been added include: pharmacists, laboratory technicians, senior care workers, nursing assistants, health services/public health managers and directors, audiologists and dental hygiene therapists.

Those applying for entry clearance or permission to stay may be paid 80% of the 'going rate' for the occupation code, as well as benefitting from reduced visa application fees.

Appendix Shortage Occupation List that lists the jobs currently on the Shortage Occupation List can be viewed [here](#).

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-shortage-occupation-list>

<https://www.gov.uk/government/news/rule-changes-to-make-it-easier-to-recruit-health-and-care-staff>

Studying in the UK

Coronavirus (COVID-19): Guidance for Student sponsors, migrants and short-term students

The latest guidance for Student sponsors, migrants and short-term students in response to the Coronavirus pandemic can be viewed [here](#). The following changes have been made:

- A clarification has been made that sponsors are able to use the current Student sponsor guidance to permit students to defer their studies for a period exceeding 60 days due to exceptional circumstances. (Para. 2.18)
- The Graduate route launch date has been added. (Para. 3.20)
- The date that students must have entered the UK by to remain eligible for the Graduate route has been added, and clarification added to refer to any eligible course for the route, including one-year masters programmes. (Para. 3.22)
- A clarification has been made to confirm that students who have previously entered within the validity of their permission will be eligible to apply for the Graduate route provided they re-enter before the expiry of their permission and make an in-time application for the Graduate route. (Para. 3.23)

<https://www.gov.uk/government/publications/coronavirus-covid-19-student-sponsors-migrants-and-short-term-students>

Changes to the Immigration Rules – Studying in the UK

Changes to the Immigration Rules have been laid before Parliament, including the following amendments in relation to the Student Route and studying in the UK:

- A new subparagraph has been added in relation to the Student route to specify that a person will not be prevented from meeting the academic progression requirement if they are on an integrated Master's or PhD programme and successfully complete the course leading to the award of the lower-level qualification which formed part of that programme.
- A minor change is also being made to the Short-term Student (English Language) rules to delete a point which erroneously stated that there was a right of administrative review if a Short-term Student application was refused. This correctly aligns the Rules with Appendix Administrative Review.
- The ATAS requirement is being expanded to cover Relevant Researchers on Sponsored Work-based Routes, to respond to a national security threat posed by foreign state interference in academia. This policy is to be expanded to include those coming to the UK under a sponsored work route to work in an occupation that includes postgraduate research in an academic environment.
- An amendment to Appendix Parent of a Child Student to clarify that an applicant on this route can rely on funds held by their partner (whether or not their partner is in the UK).

The full statement of changes and explanatory memorandum can be viewed [here](#).

<https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1248-4-march-2021>

Confirmation of Acceptance for Studies (CAS) – Bulk data transfer for sponsors

The Home Office (UKVI) have published updated technical information for licensed sponsors using bulk data transfers between their IT systems and the sponsorship management system (SMS).

The updated guidance can be viewed [here](#).

<https://www.gov.uk/government/publications/bulk-data-transfer-for-sponsors-data-values-for-cas-fields>

Graduate route to open to international students on 1 July 2021

The Home Office (UKVI) has published information about the new Graduate route that will be opening to international students on 1 July 2021. This new route will enable eligible international students to continue to work or look for work after their studies for a maximum periods of 2 years, or 3 years for Doctoral students. Further information about the new Graduate route can be viewed [here](#).

Coronavirus concessions for students unable to travel to the UK due to the pandemic have also been extended, so applicants who commenced studies in Autumn 2020 will now have until 21 June 2021 (previously 6 April 2021) to enter the UK in order to be eligible for the Graduate route. However, Students who began their studies in January or February 2021 will need to be in the UK by 27 September 2021.

We plan to deliver sessions to education institutions (students or staff), as soon as further information and guidance has been published by the Home Office (UKVI). If you are interested in us holding a session at your institution, please contact us for further information and a quote.

<https://www.gov.uk/government/news/graduate-route-to-open-to-international-students-on-1-july-2021>

Sponsorship Management System

Worker and Temporary Worker priority change of circumstance service

The Worker & Temporary Worker priority Service reopened on 5 October 2020 with a limited capacity, but this has now been increased to 60 priority requests considered each day. It is anticipated that demand for the service will continue to be high. Further information about this priority service for Worker and Temporary Worker sponsors can be viewed [here](#).

<https://www.gov.uk/government/publications/priority-change-of-circumstances-for-sponsors/tier-2-and-5-priority-change-of-circumstance-service>

Issue relating to Shortage Occupation Code list

Following a recent IT outage an issue has arisen relating to the Shortage Occupation Code list. SOC code 2219 – *Health professionals not elsewhere classified Band 4 & equivalent* has not been added as a shortage occupation as expected. This means that CoS issued for this SOC code cannot be saved if you select the tick-box to indicate that the job is classed as a shortage occupation. The issue is expected to be resolved shortly, but in the meantime, in order to save and assign the CoS, you must not select the shortage occupation tick box.

Other Immigration News

Other changes to the Immigration Rules

Changes to the Immigration Rules have been laid before Parliament, including the following:

- An amendment to *Appendix Continuous Residence* has been made to clarify that where a person who had permission as a dependant was absent from 11 January 2018, that absence will not be counted towards the 180 day limit on absences for the purpose of settlement on the following routes: Skilled Worker, Representative of an Overseas Business, Global Talent, Innovator, T2 Minister of Religion, T2 Sportsperson, UK Ancestry or Hong Kong British National (Overseas).
- Amendments have been made to the Visitor route, including:
 - Clarifying the position for 'relevant nationals' who intend to get married or form a civil partnership in the UK.
 - Clarifying the study provisions under the Visitor route by bringing all the requirements into the eligibility section of the rules and clarifying the ATAS condition in the visitor rules.
 - Removing duplication of the requirement for those extending their stay in the UK as visitors.
 - Clarifying the provisions for manufacturers and suppliers of goods to the UK.
 - Clarifying the requirements for those coming to the UK for medical treatment under reciprocal healthcare arrangements.
- Amendment to *Appendix Hong Kong British National (Overseas)* to correct a number of small errors as well as amending the form BN(O) that status holders and their dependants can use to apply for settlement. The changes also enable access to public funds where an individual who is in the UK on the BN(O) route later becomes destitute or is at imminent risk of destitution and successfully applies for a change of conditions. They also ensure that those who have been granted Leave Outside the Rules for 12 months, where their BN(O) application was refused, must meet the maintenance requirement when they subsequently apply for the BN(O) route.
- Further amendments are also being made to *Appendix Hong Kong British National (Overseas)* as well as paragraph 39E to allow BN(O)s who have overstayed in the defined period prior to the route opening and then who have successfully applied for the BN(O) route to apply for settlement and not be refused for failing to meet the lawful residence requirement.

The full statement of changes and explanatory memorandum can be viewed [here](#).

<https://www.gov.uk/government/publications/statement-of-changes-to-the-immigration-rules-hc-1248-4-march-2021>

Coronavirus (Covid-19): advice for UK visa applicants and temporary UK residents

The latest advice for visa applicants and temporary UK residents affected by travel restrictions associated with coronavirus can be viewed [here](#).

The most recent changes are as follows:

- If an applicant intends to leave the UK but have not been able to do so and they have a visa or leave that expires by **30 June 2021** they may request additional time to stay, known as 'exceptional assurance'.
- If an applicant's visa or leave expired between 24 January 2020 and 31 August 2020 there will be no adverse immigration consequences if they did not make an application to regularise their stay during this period. However, if they have not applied to regularise their stay or submitted a request for an 'exceptional assurance' they must make arrangements to leave the UK.
- Applicants are normally required to apply for their UK visa from the country they're living in. However, if an applicant is applying from overseas but their Visa Application Centre (VAC) is closed due to coronavirus restrictions, they can apply online and select a VAC in another country worldwide to submit their application and biometrics. They'll need to make sure they're permitted to travel to that country beforehand. This concession has been extended to **30 June 2021**.

You can view the latest information/advice [here](#). The full collection of guidance to applicants and sponsors for those affected by changes to UK immigration and borders due to coronavirus can be viewed [here](#).

<https://www.gov.uk/guidance/coronavirus-covid-19-advice-for-uk-visa-applicants-and-temporary-uk-residents>

<https://www.gov.uk/government/collections/coronavirus-covid-19-immigration-and-borders>

Veristat Services

Training on new Skilled Worker or Student routes

We provide comprehensive training on all aspects of immigration, including; the Student route, the Skilled Worker route, Right to Work and the identification of fraudulent documents.

We can also deliver a session simply focusing on the recent changes being brought about by the new points-based immigration system and how employers and education providers can be prepared moving forwards.

The new routes have brought about significant changes for sponsors and our training outlines these changes and helps prepare employers and education providers for sponsoring employees and students under these routes.

All training can be provided in person on the client's site or remotely via Microsoft teams/Zoom.

If you think your organisation would benefit from training in any of these areas, please contact us for a quote by emailing us at enquiries@veristat.co.uk. If you would like to discuss the contents of our training packages or require a bespoke training package to be delivered, please call us on 01344 624016 or email us as above.

Sponsor licence applications

With the introduction of the new immigration system, employers or education providers wishing to sponsor EEA/EU nationals or non-EEA nationals will need to apply for a Sponsorship licence.

We provide a comprehensive advice and support package to employers and education providers applying for a licence. This can include preparation for a Home Office (UKVI) visit and training on the new Skilled Worker or Student routes and the SMS system, as well as assistance with applying for Certificates of Sponsorship (CoS) or Confirmation for Acceptance for Studies (CAS) and a step by step guide for completing the application itself.

Please email us at enquiries@veristat.co.uk or by telephone on 01344 624016 for further details and/or a quote for helping you with your application.

Audits and Inspections

Veristat is hugely experienced in providing compliance audits across all immigration routes. We have worked with hundreds of employers, ranging from small family businesses to multi-nationals, high street retailers and professional sports/football clubs. In the education sector, we have worked with over 30 universities and a significant number of colleges and schools.

Our audit/inspection service is fully flexible and can be tailored to individual requirements. It is based on sound practical experience of UKVI's policies, culture and approach.

- For employers, we offer on-site Skilled Worker or ICT compliance inspections (with staff aware or unaware to simulate an announced or unannounced UKVI visit). We also offer right to work compliance visits.
- For education providers, our service ranges from a "lite" health-check to a comprehensive review of student route activities, assessing compliance with UKVI requirements and sharing best practice. We also offer targeted inspections covering specific issues, such as BCA, Skilled Worker compliance, policies, student unions, relationships with partner institutions, etc.

On completion, we provide a comprehensive, evidence-based report, together with an assessment of how compliant the business or institution is with UKVI's requirements. We will support the introduction of change if required and offer a 'spot check' follow up service at a later date if beneficial to reassure management that recommendations have been implemented.

If you are interested in booking an audit/inspection, please call us on 01344 624016 or email us at enquiries@veristat.co.uk.

Please note we are also now offering remote audits and inspections- please contact us for more details.

File Inspection Days

If you're unsure whether you require a full compliance audit or specific training but would like an independent check of your files to ensure they are fully compliant with Home Office requirements, we can provide a UKVI file compliance inspection of either your staff or student files.

Depending on the number of employees/students you have, we would either check all files or an agreed sample. After the inspection has taken place, we would provide a written report outlining any risks, feedback and recommendations.

For further information or a quote for our file inspection days, please call us on 01344 624016 or email us at enquiries@veristat.co.uk.

Advice/Support packages

These packages can either be on a fixed rate monthly retainer basis, which can include a number of services, such as: acting as your Level 1 user, issuing of CoS/CAS, immigration audit, etc. Alternatively, you can purchase an annual package of either 5, 10, 15- or 20-hours advice/support per year at reduced rates.

If you are interested in discussing our retainer or hourly advice/support packages further, then please contact us on 01344 624016 or email us at enquiries@veristat.co.uk.

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