

Navigating the Challenges & Opportunities Arising From Business Immigration, Recruitment & Commercial Contracts

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Today we will discuss...

1 Brief Overview of Immigration Control

2 New Visa Categories 2022

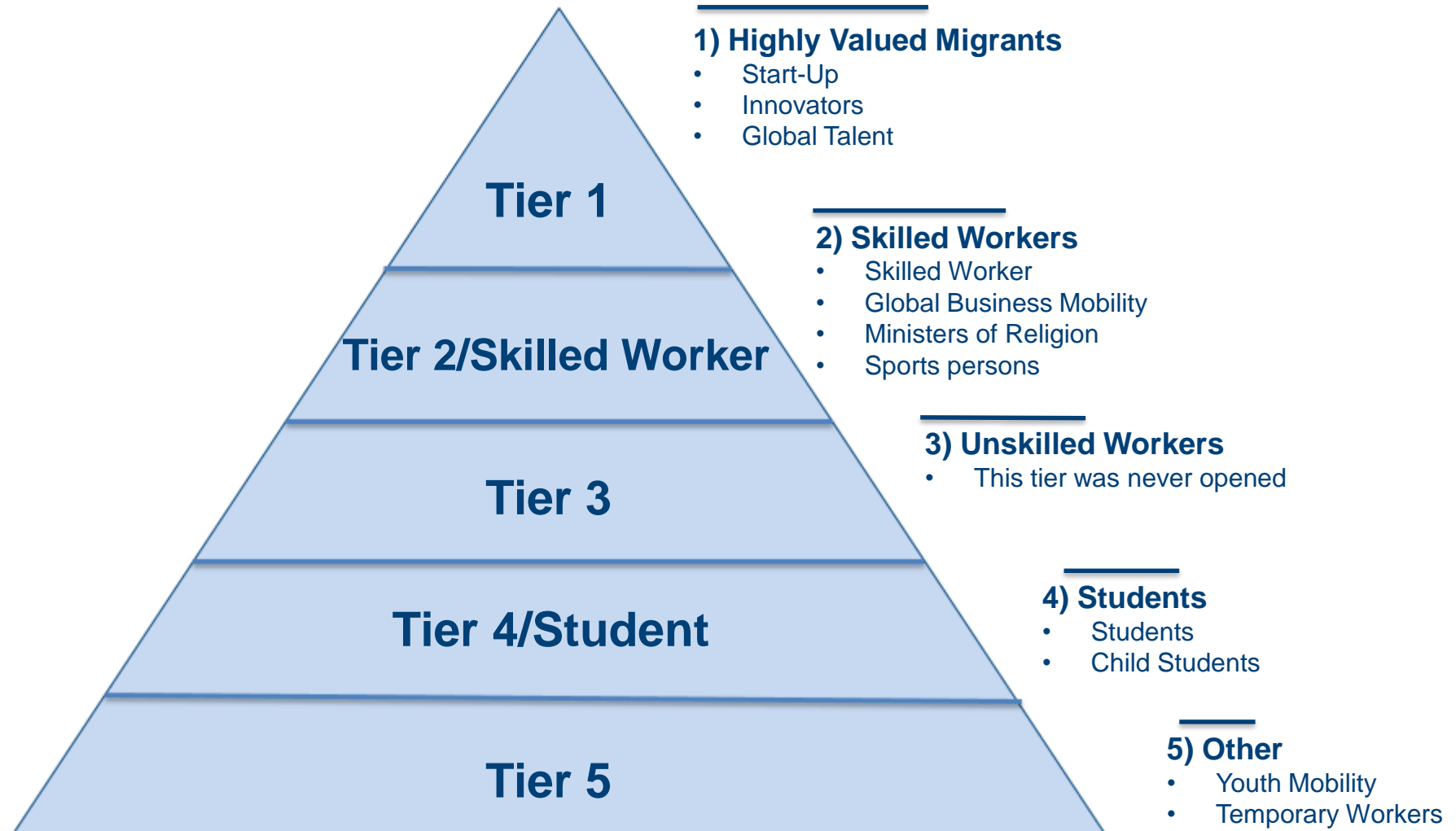
3 Changes to Right to Work Checks

4 Q&A



Brief Overview of Immigration Control

Points Based System



Brief Overview of Immigration Control

Skilled Worker Visa

- EU and non-EU nationals treated the same and generally will require a Skilled Worker visa if not living in the UK/NI by 1 January 2021
- **All organisations will need to obtain a sponsor licence with the Home Office to hire and recruit EU or non-EU nationals from 1 January 2021**
- Must be paid at least £25,600 (subject to the relevant SOC Code)
- If the role appears on the Shortage Occupation List the minimum salary required for a Skilled Worker visa can drop to as low as £20,480 per annum
- No Resident Labour Market Test or cap
- Indefinite Leave to Remain (ILR) after 5 years i.e. permanent residency



Brief Overview of Immigration Control

Obtaining a Sponsor Licence

- We recommend organisations to apply for a Sponsor Licence from the earliest opportunity with the Home Office due to the surge in applications being made
- We have assisted organisations of all sectors in obtaining the licence. Processing is around 2-3 months for the licence to be granted
- Licence will be granted for 4 years and extendable in 4 year segments
- Basic corporate documents needed to apply
- Once granted will allow your business from 1 January 2021 to recruit from both Europe and outside the EU for a diverse range of roles
- Many “*lower skilled*” roles will now be eligible for a visa under the new system
- Home Office fees for the licence:
 - Small/medium organisation - **£536**
 - Large organisation - **£1,476**



New Visa Categories 2022

High Potential Individual Visa

- Recent graduates from top non UK universities can apply for a visa to live and work in UK without a sponsor.
- There will be a list of universities published by Home Office as determined by ranking systems for top global universities.
- Lasts for 2 years (3 with PHD), does not lead to settlement and cannot be extended.
- Similar to existing Graduate Visa for UK graduates.
- Could be a useful way for graduates to gain experience in UK post graduation and then either set up a business or work for an employer and switch to another visa at the end of the two years.
- Originally was advertised as leading to settlement but it actually does not.
- Went live on 30 May 2022.

New Visa Categories 2022

Scale Up Visa

- Requires sponsored job offer from an authorised UK scale up company.
- To register the company will need to demonstrate:
 - Annualised growth of at least 20% in previous 3 years for turnover or staffing
 - Minimum of 10 employees at the start of the three year period.
- Salary requirement of at least £33,000.
- Does lead to settlement and can give migrant more flexibility to switch jobs.
- No Immigration Skills Charge.
- May be relevant to certain newer fast growing companies.
- Remains to be seen how popular/useful this route will be.
- Went live on 22 August 2022.

New Visa Categories 2022

Business Global Mobility Visa

- More of a rebrand of Intra Company Transfer / Representative of an Overseas Business Visa Routes than a new visa.
- A way to second workers from foreign group company to UK entity.
- Despite recommendations from Migration Advisory Committee will not lead to settlement.
- Given the abolished Representative of an Overseas Business Visa Route did without requiring a sponsor licence this is a step back.
- Availability of Skilled Worker Visa means that these visa categories are of limited value and will likely only be useful in certain circumstances.
- Changes took effect from 11 April 2022

New Visa Categories 2022

Investor Visa abolished

- Previously an investment of £2 million could lead to a visa.
- Concerns around money laundering and Russian oligarchs led to the closure of this route to all new applicants with immediate effect.
- The usual 21 days' notice was not given to avoid a “closing down sale” effect.
- That is existing migrants can extend but no new applicants.
- Russian nationals used to account for up to one third of applicants but this had fallen to around 10%.
- Innovator route due to be amended to provide an investment-related migration option with more information to follow.

Changes to Right to Work Checks

- Knowingly hiring illegal immigrants is a criminal offence.
- More commonly negligently hiring them can lead to £20k fines.
- Employers have a statutory defence if they have conducted valid right to work checks.
- Three step process of:
 - Obtaining;
 - Checking; and
 - Copying ID documents.
- You should check all employees to avoid discrimination which is why new employers will generally ask to see passport.



Changes to Right to Work Checks

- Since 6 April 2022 manual right to work checks are no longer sufficient for those with BRPs or residence permits. Instead online checks must be used.
1. Use the Home Office online service to verify right to work - <https://www.gov.uk/view-right-to-work> you can proceed to request the job applicant to share their details with you through an access code
 2. Use the employer checking service to obtain a positive verification notice if they have an active visa application with the Home Office - <https://www.gov.uk/employee-immigration-employment-status>
- Change is not retrospective.



Changes to Right to Work Checks

- For now British and Irish employees can still opt for manual passport check.
- Right to work checks were temporarily adjusted due to coronavirus (COVID-19).
- However, from 30 September the temporary Covid-19 concession allowing remote checking of documents over video calls will come to an end.
- Therefore, checks should be done in person in order to avail of the statutory excuse.
- Alternatively Identity Service Providers (IDSP) can verify identity digitally for a fee



THANK YOU

Questions?

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