

13 Jan 2021

# Employing overseas workers in the UK

Learn about recruiting overseas workers, the categories of non-UK nationals able to enter and work in the UK, and the legal framework involved

## Introduction

Many employers value workers from overseas due to the knowledge and skills they can contribute to the organisation. People professionals have an important role to play in recruiting migrant workers as they are responsible for carrying out the necessary checks and making sure the law is followed.

This factsheet looks at categories of non-UK nationals in terms of their freedom to enter and work in the UK. It outlines the legal framework and highlights the risks of employing people illegally. It also explores the particular issues and responsibilities employers currently need to be aware of when employing migrant workers and provides links to government guidance on the employer's role during the checking process.

Explore [our viewpoint on Brexit and future immigration policy](#) in more detail, along with actions for government and recommendations for employers.

## Reasons for employing workers from overseas

There's considerable value to organisations in employing workers from overseas. Key reasons include:

- Performing jobs requiring specialist skills (for example, technical or language skills) that are not available in the UK.
- Filling vacancies for highly-skilled jobs which the government agrees are in designated 'shortage occupations'.
- Facilitating secondments or transfers from an overseas division, for example for developmental assignments that will also introduce new ideas into the UK organisation. This is sometimes referred to as an intra-company transfer.

- Filling temporary vacancies requiring a pre-existing skill set
- Filling unskilled or low-skilled vacancies due to labour shortages.

People professionals have an important role to play in this process: it's crucial they ensure the organisation complies with the relevant law and carries out the required checks.

## The UK's decision to leave the European Union

Following the UK's departure from the European Union on 31 January 2020, the transitional period during which free movement of labour continued ended on 31 December 2020.

The government has introduced a new UK points-based immigration system. Citizens from the Republic of Ireland will be exempt from the new immigration rules.

Under the new system, all applicants, both EU and non-EU, will both need a job offer from an approved sponsor at the required skill level and demonstrate that they can speak English

Applicants will also need to have 70 points from the following list to be eligible to apply. Some of these characteristics are tradeable.

- Offer of job by approved sponsor – 20 points.
- Job at appropriate skill level – 20 points.
- Speaks English at required level – 10 points.
- Salary of £20,480 (minimum) - £23,039 – 0 points.
- Salary of £23,040 - £25,999 – 10 points.
- Salary of £26, 000 or more – 20 points.
- Job in a shortage occupation – 20 points.
- Education qualification: PhD in a subject relevant to the job – 10 points.
- Education qualification: PhD in a STEM subject relevant to the job – 20 points.

The 'skilled worker' route will be the main route through which employers recruit overseas workers. The main elements of the route include:

- A minimum skill threshold, dependent on the occupation, of RQF Level 3 (SCQF 6 in Scotland), which is equivalent to A-level occupations. Employers will therefore be prevented from recruiting for roles that only require skills at GCSE level or below, such as hospital porters, care workers, bar staff and customer occupations.
- A minimum salary threshold of £25,600; although lower thresholds will apply to some public service occupations and shortage occupations (no less than £20,480).

New entrants will be subject to a threshold that is 30% below that of experienced workers alongside skill shortage occupations (£20,480) and workers with PhDs relevant to the job (£20,480).

- A range of costs including visas, a sponsorship licence and an immigration skills surcharge.
- Quickening the recruitment process for recruiting overseas nationals to 8 weeks.
- Removing the migration cap.

Under the new system, employers will be subject to more bureaucracy and a range of costs in recruiting all non-UK citizens from overseas. These include a sponsorship licence, visas (which could extend to dependants of the skilled migrant) and the Immigration Skills Charge for each worker. All non-UK citizens will also be subject to an Immigration Health Surcharge of £400 per year, which some employers may also feel compelled to pay, with the exception of health and care staff who will be exempt from the charge.

In July 2020, the government announced a new [health and care visa](#) which will offer a new fast-track visa route for eligible health and care professionals with a lower visa application fee.

There's more practical guidance on navigating the new points-based system in our [Employers' legal guide to post-Brexit immigration](#) and additional resources and comment in our [Brexit hub](#).

## Intra-company Transfer

Another way of recruiting overseas workers to fill skill gaps in the existing workforce is the Intra-company Transfer (ICT) route. The ICT route allows employers to sponsor existing employees of an overseas entity and send them to the UK on assignment.

There are two types of [Intra-company visas](#):

- **The Intra-company Transfer visa** is for sponsored workers who will be paid the higher of £41,500 or the minimum salary for the job. They are normally limited to holding no more than five years' stay in any six-year period (or nine years in any ten-year period for those earning above £73,900). They must have worked for the employer's company overseas for at least 12 months, unless they are paid £73,900 or more per annum.
- **The Intra-company Graduate Trainee visa** is for sponsored workers entering as part of an accelerated graduate trainee programme for a specialist role. They must be paid the higher of £23,000 or the minimum salary for the job. They need to be a

recent graduate with at least three months' experience with their employer overseas.

## Employers' responsibilities for avoiding illegal employment

It's a criminal offence to knowingly employ a person who requires but lacks immigration permission, to be in that role. There's a maximum prison sentence of two years and an unlimited fine for employers caught in breach. In practice, this is aimed at employers who deliberately flout the law to exploit vulnerable employees and undercut legal competitors. The merely careless or negligent will generally be dealt with through a civil penalty.

Employers have to check and copy specific original documentation for any new employees. The [government's guidance for employers on preventing illegal working](#) sets out when checks must be made, what employers need to do including tips on how to check authenticity and what to photocopy and retain. Checks must be completed before employment begins, but re-checking is also required for employees with time-limited immigration status.

Any checks made should be done in a non-discriminatory manner, following [government guidance on avoiding unlawful discrimination while seeking to prevent illegal working](#) which recommends that all job applicants should be treated in the same way.

Read our [pre-employment checks](#) guidance for employers.

## Recruiting overseas workers

Organisations with operations overseas should find that their HR teams will be able to help with recruitment. Otherwise, it may be advisable to use a reputable law firm which has experience of recruiting overseas workers.

Employers should consider using the internet in recruitment, particularly in the early stages, as it is an inexpensive way of reaching overseas workers and can save a lot of time.

After an initial sift, face-to-face interviews will probably be needed, either in the home country or the UK. When interviewing, care must be taken to avoid discrimination. [Government guidance](#) gives advice.

Information comparing qualifications in different countries can be obtained from the [National Recognition Information Centre for the United Kingdom \(UK NARIC\)](#).

## The contract

Contracts will vary depending on whether the assignment is temporary or permanent. For short secondments, it's often easier for the employee to retain home country pay and benefits, topped up by an allowance. Items to consider are:

- Expected duration of assignment.
- Termination during an assignment and the period of notice at end of an assignment.
- Details of pay, including (for secondments) who pays and in what currency.
- Other financial benefits such as relocation costs and pension contributions.
- Taxes and social security payments.
- Applicable law during assignment; for example foreign nationals employed in the UK have the same statutory employment rights as their British counterparts but may also be subject to the mandatory employment laws of the home country.
- Having a dual contract for employees who divide their working time between the UK and another country.

## Relocation

The benefits package must include a fair relocation deal. This should include payments for:

- Travel costs for the employee and family.
- Temporary accommodation at the start of the assignment.
- Cost of shipping possessions.
- Return trips to the home country (as agreed in the contract).

Sometimes the rest of the dependant family may choose to remain in the home country which means that the overseas worker is likely to want to make more trips home.

Apart from financial help with relocation, employers should give practical help such as finding accommodation, obtaining a driving licence and credit cards.

## Induction

A new overseas worker should follow the same induction programme as any other employee.

However, it may be necessary to have additional orientation sessions offering a basic understanding not only of UK employment but also of UK society in general.

Organisations which regularly employ overseas workers from a particular country (for example a Japanese company in the UK seconding employees from Japan), are likely to have an informal network of expatriate staff who can make a new family feel welcome and

provide advice from personal experience.

Where such a network does not exist, the use of a co-worker as a 'buddy' may be helpful. Preferably this co-worker should have a similar domestic situation to the new employee and so be able to give practical advice on the day-to-day issues facing the entire family.

## Multi-cultural organisations

Managers should be trained to communicate effectively with people from other cultures and be sensitive to different communication styles and attitudes to work. It's particularly important to recognise that ideas vary from one culture to another. For example, some place greater emphasis on consensus and collaboration whereas others value clear direction from strong leadership in a strict hierarchy; some encourage honesty, even open criticism, whereas others would prefer more diplomacy and conciliation with no show of strong feelings.

It's possible to build effective teams by having a clear framework that does not ignore cultural differences but encourages communication and ensures that everyone understands the common goals.

## Language

An English language requirement has been introduced for public sector workers in public-facing roles. However, employers should be aware that insisting all staff speak English all the time could amount to indirect race discrimination. In some circumstances a requirement to speak English might be a proportionate means of achieving a legitimate aim which would mean that it's not a discriminatory policy. An example might be where staff are dealing with customers, such as on a reception desk. There's advice on writing a policy that meets the employer's needs and is not directly discriminatory in our report The state of migration: employing migrant workers.

# Useful contacts and further reading

## Contacts

**Sponsorship and Employers' Helpline** Tel: +44 (0) 300 123 4699 (provides guidance and advice on the prevention of illegal working)

[GOV.UK - New immigration system: what you need to know](#)

[GOV.UK – UK visa sponsorship for employers](#)

[GOV.UK – Right to work checks: an employer's guide](#)

[GOV.UK - Check if someone can work in the UK - online tool](#)

[GOV.UK - Employers: illegal working penalties](#)

## Books and reports

DEPARTMENT FOR BUSINESS, INNOVATION AND SKILLS. (2015) *The impacts of migrant workers on UK businesses*. London: BIS.

## Journal articles

CHURCHILL, F. (2020) [Majority of UK migrant workers now non-EU citizens, figures show](#). *People Management* (online). 19 June.

DAVIES, G. (2020) [Survey points to painful adjustment to new immigration system](#). *CIPD Voice*. Issue 24, 6 July.

OWEN, J. (2020) [UK faces skills crisis as inflow of EU workers plummets](#). *People Management* (online). 27 November.

VANDAL, F. (2020) [Are you ready for the immigration shake-up?](#) *People Management* (online). 26 November

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This factsheet was last updated by Gerwyn Davies.