

Immigration Law 2021●

A guide to the points based
immigration system



Summary of new system

- From 1 January 2021, EU nationals will need visas to be able to work in the UK.
- Irish nationals will not require to register to work in the UK.
- Any EU national, or their family member, who was resident in the UK before the end of December 2020 will be able to register for Pre Settled or Settled Status by June 2021. If they register they will not need a visa.
- To bring an EU, or non EU worker, to the UK after 1 January 2021 it will be necessary for a business to sponsor them as a “Skilled Worker”.
- A “Skilled Worker” visa will be open to anyone filling a job which is considered to be skilled to NQF Level 3 or above. This is the equivalent of an English A Level or a Scottish Higher qualification.
- Businesses who wish to support “Skilled Worker” visas will need to apply for a “Skilled Worker Licence” to do so.
- Businesses using the Skilled Worker Licence will need to pay the Immigration Skills Charge for each visa application they support.
- There will be no requirement to advertise roles before they are offered to non UK/Irish nationals.



Skilled worker licence

- A business needs to apply online for a “Skilled Worker Licence”. Once the online application is submitted, supporting documents need to be provided to the Home Office.
- Processing times for Licence applications can vary, and the Home Office recommend any business that is planning to recruit from overseas in 2021, to apply for a Licence.
- Each Licence is valid for 4 years.
- Any business with an existing Tier 2 Licence, will have their Licence converted to the new format without paying an additional fee.
- As a Licence holder, a business will agree to comply with the Home Office compliance duties and can be audited by the Home Office at any time.
- As part of the Licence application, the business must nominate members of staff to fill key roles and act as contacts for the Home Office.
- The supporting documents required for an application vary depending on the type of business, how long it has been trading, and the type of application made. Submitting the wrong documents can result in an application being refused.

They are professional, timely and customer-focused. They get back to you and clearly have first-hand knowledge and advice for each situation.

~ Chambers and Partners



Sponsor compliance duties

There are four main duties that a licensed company must agree to comply with:

1. Record keeping - You must keep copies of ALL employees' Right to Work documentation, maintain a list of sponsored migrants' contact details, keep evidence of payments to migrants and copies of all advertising;
2. Reporting - You must report any material changes to the company (e.g. takeovers or mergers or investments) and material changes to your sponsored employees' circumstances (e.g. unauthorised absences, changes to salary, leaving the company etc.) to the Home Office;
3. Compliance - You must comply with all UK immigration and employment laws. This includes keeping up to date with Home Office guidance; and
4. Co-operation - If the Home Office ask to audit you or ask for information you must comply.

It is important that a business fulfils these duties as otherwise there is a risk that the Home Office will revoke their Licence.

If a Licence is revoked, the business may lose key staff and be unable to replace them with overseas workers.



Why choose Morton Fraser?

- The new system is based on the Tier 2 Sponsor Licence system, which has operated for non EU nationals for more than a decade.
- Morton Fraser's immigration team is recognised as the leading business immigration practice in Scotland in both independent legal directories (Chambers and Legal 500).
- We offer clear, practical advice on how to use the immigration system to recruit the talent your business needs.
- We provide a range of fixed fee services that can be tailored to your individual needs.
- We can advise on all sponsor licence management and compliance issues.
- We are available for face-to-face meetings, telephone calls, email correspondence and video consultations.
- Our team is flexible, available, experienced and ready to help.

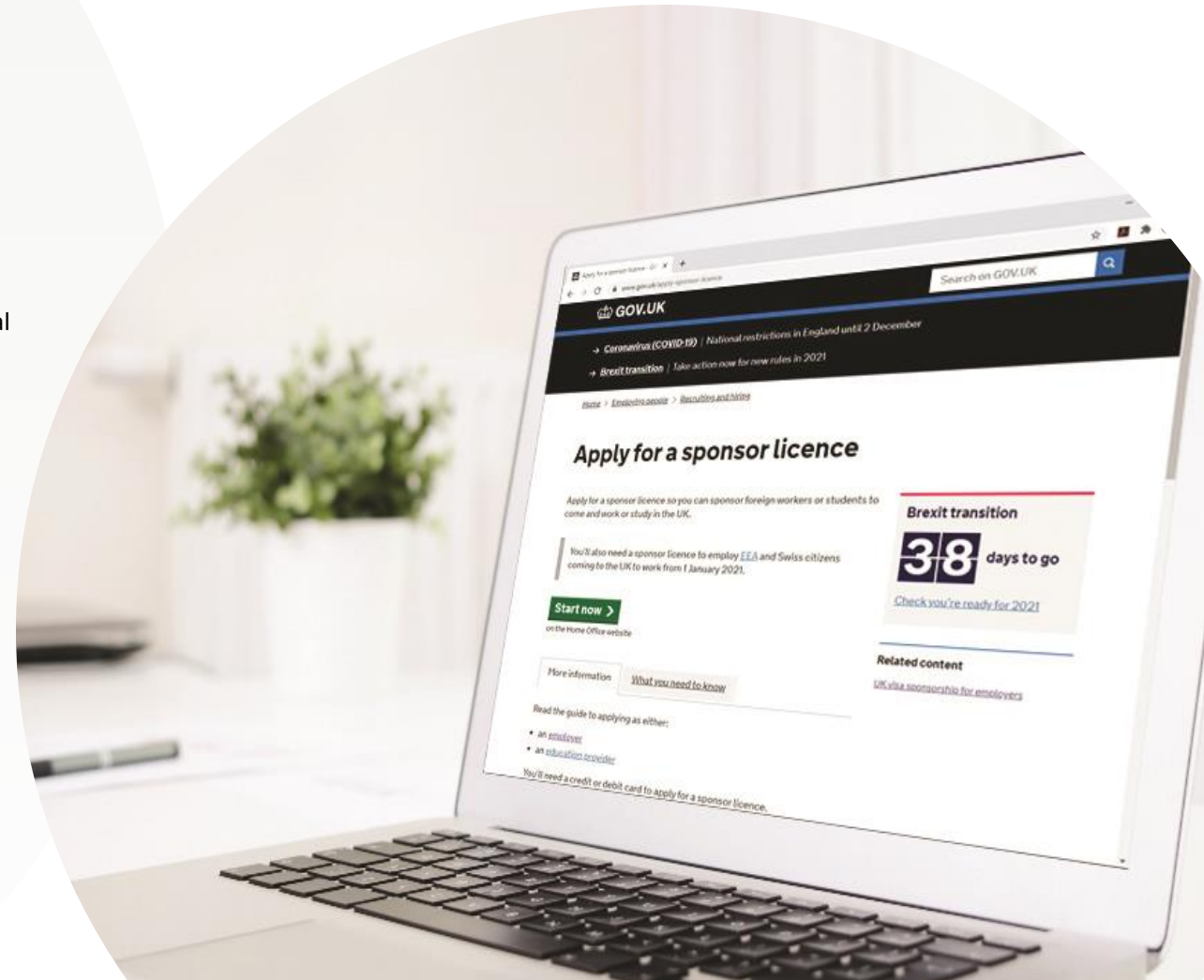
The immigration team at Morton Fraser inspires confidence that they are experts in their field. They explain what has to be done in a clear and concise manner, and they give very practical advice. There are often deadlines to be managed, and they respond very well to these.

~ Legal 500



The cost of sponsorship

- The Home Office cost for an initial Licence application varies depending on the size of the business.
 - A small business will pay £536 for a Licence.
 - A business which does not qualify as a “small business” will pay £1,476.
- Each time the company sponsors a worker, they will pay:
 - £199 for the Certificate of Sponsorship; and
 - An Immigration Skills Charge of either £364 for each year they intend to sponsor a visa (small companies) or £1,000 for each year (other companies).
- Some businesses also agree to meet the visa costs of the applicant but this is not obligatory.
- If someone leaves their job before the visa expires the company may be able to claim a partial refund of the Immigration Skills Charge.
- We can provide advice on how to limit risk in relation to other costs.



Visa application requirements

Strong immigration team that advises high-profile UK companies on matters such as relocation, visa applications and audits.

~ Chambers and Partners

The individual also needs to meet a number of requirements to qualify for the visa. These include:

1. They must have a valid Certificate of Sponsorship from the company, so it is important not to make mistakes when issuing this document;
2. The job offer must meet the minimum salary required by the Home Office. This will vary depending on the individual's age and experience, as well as the type of job they will be doing;
3. Nationals from countries where English is not the national language, will need to show they speak English to the required level; and
4. The employee needs to show they have sufficient funds to meet their initial living costs, although a business can undertake to meet these requirements and reduce the risk of a visa refusal.

The visa process is important, as a small error can result in an application being refused and the entire process restarting.

We help businesses through the entire process to avoid refusals and make sure they get the skills they need to grow.



Meet the team



STUART MCWILLIAMS

Partner, Immigration

0141 274 1147

Stuart.mcwilliams@morton-fraser.com



DAVID HOSSACK

Partner

0131 247 1024

David.hossack@morton-fraser.com

For more information about our services visit:

<https://www.morton-fraser.com/what-we-do/business/immigration-law>

THANK YOU.

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For any of these services please contact us.

EDINBURGH
0131 247 1000

GLASGOW
0141 274 1100

INFO@MORTON-FRASER.COM

www.morton-fraser.com