

# Skilled Worker and Intra Company Transfer Visas – Employing Migrant Workers in the UK

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## Note:

The Skilled Worker and Intra Company Transfer visa routes replace the previous Tier 2 sponsorship system. From 1 December 2020, changes will be made to the Tier 2 sponsorship system. The Tier 2 (General) visa category will be replaced by the Skilled Worker visa category and/or the Tier 2 (Intra Company Transfer) visa category will be replaced by the Intra Company Transfer (ICT) visa category/categories.

Companies which already hold a Tier 2 Sponsor Licence do not need to take any action as their sponsor licences will automatically convert to the new system.

If a company wishes to employ workers who require a visa to work in the UK they may be required to sponsor them. This will include workers from the EU who are coming to the UK to commence living and working in the UK from 1 January 2021.

To sponsor a migrant for employment in the UK, the company must first be granted a Sponsor Licence by the Home Office. Once this licence is in place, the company assign Certificate of Sponsorship to the migrant worker, who can then apply for the relevant visa. Please note, however, that in all circumstances, prior to sponsoring a worker for employment in the UK, the company must consider whether it is possible to recruit from the UK and hire someone who would not require a visa to work in the UK.

## Step 1 – Obtaining a Sponsor License

To be eligible for a sponsor licence, the company must have an operating or trading presence in the UK. They must also be able to show that they have the necessary HR systems and procedures in place to fulfil their obligations as a licenced sponsor.

The Home Office can carry out a pre-licence visit at the company's premises once the application is submitted and before granting the licence.

## Step 2 – Certificate of Sponsorship (CoS)

Once the company's sponsor licence is in place the applicant can then be assigned a CoS. The CoS is a document between the Home Office and the company which sets out the details of the migrant's employment in the UK. The details contained on the CoS will be the parameters of the migrant's immigration permission to be employed in the UK. The CoS is both sponsor and role specific. As such, the migrant's permission to work in the UK will be limited to working for the company only and only in the role as stated on the CoS.

There are two types of sponsored work visas:

### i. Intra Company Transfer

The ICT visa route is for existing employees of entities outside of the UK which are connected to the company in the UK by way of common ownership or control whose specialist skills are required by the company in the UK. The purpose of the ICT visa route is to accommodate temporary moves by key personnel, enabling multi-national companies to move their workers between subsidiary branches.

Ordinarily, the migrant worker will need to have worked for the entity overseas for at least 12 months prior to making the application.

To apply, the role in the UK must be deemed by the Home Office to be at least a degree level (Regulated Qualifications Framework (RQF) level 6) role and the minimum salary is £41,500 per annum (or the "going rate" for the role, whichever is higher).

### ii. Skilled Worker

The requirements for Skilled Worker visa are as follows:

- **Genuine role:** The role must be genuine and evidence of this must be retained by the company;
- **Skill level:** The role must be deemed by the Home Office to be an A-level role or above (RQF level 3);

- **Minimum salary requirement:** The minimum salary requirement of £25,600 per annum (or the “going rate” for the role, whichever is higher) must be met. In limited circumstances it may be possible for the minimum salary to be lower but no lower than £20,480 per annum;
- **English language requirement:** This can either be met if the migrant has a degree recognised by the Home Office as having been taught in English, the migrant is a national of an English speaking country, the migrant has passed an English language test at an approved test provider showing a knowledge of English equivalent to level B1 or above of the Council of Europe's Common European Framework for Language Learning or the migrant has a GCSE, A-level or Scottish Higher in English language or literature.

There are two types of CoS for Skilled Workers:

- **Defined Certificate of Sponsorship (DCoS)**

A DCoS is required if a migrant will be making a Skilled Worker visa application from outside of the UK (this is known as an “entry clearance” or “leave to enter” application).

To obtain a DCoS, the company will need to make an individual application to the Home Office for the DCoS to be allocated to the company's licence. As part of this application it may be necessary to demonstrate to the Home Office that the qualifying criteria for the grant of a Skilled Worker visa will be met, that the company considered the UK's resident labour market prior to offering the role to an individual who requires a visa to work in the UK, that the role is genuine and that the individual the company wishes to sponsor has the correct skills for the role.

- **Undefined Certificate of Sponsorship (UCoS)**

A UCoS is required if the migrant worker will be making Skilled Worker visa application in the UK (this is known as a “leave to remain” application).

Prior to assigning a UCoS, the company should have evidence on file to demonstrate to the Home Office if required that the qualifying criteria for the grant of a Skilled Worker visa will be met, that the company considered the UK's resident labour market prior to offering the role to an individual who requires a visa to work in the UK, that the role is genuine and that the individual the company wishes to sponsor has the correct skills for the role.

### Step 3 – Skilled Worker or ICT Visa Application

As soon as the company has assigned the COS then the applicant's application for leave to enter or remain in the UK visa application can be submitted. It is not always possible for an applicant to switch from another visa route into the Skilled Worker visa category from within the UK, and therefore in some circumstances the migrant worker may need to make the application from their country of origin. Applicants can bring their spouse and children (under the age of 18) to the UK as their dependants, but will need to demonstrate that they have sufficient funds to maintain and accommodate their family in the UK.

Indefinite Leave to Remain (ILR or permanent residency)

#### i. ICT

The ICT visa route does not lead to ILR.

ICT visa holders can spend a cumulative period of five years in the UK in any six-year period as an ICT visa holder; unless they earn over £73,900 in which case they can stay for a maximum of nine years in any ten-year period in this visa category.

#### ii. Skilled Workers

Applicants who hold a Skilled Worker visa can apply for ILR after 5 years in the UK in this visa category (this can be combined with time spent in the UK as a Tier 2 (General) visa holder as well as some other limited visa categories). To qualify for ILR, the Skilled Worker must not be absent from the UK for more than 180 days in any 12-month period during the qualifying period for ILR.

For any visa granted to a dependant partner of a Skilled Worker visa holder on or after 11 January 2018 which will form part of the dependant partner's five-year qualifying period for ILR, the dependant partner must also not be absent from the UK for more than 180 days in any 12-month period from the start of the visa granted on or after 11 January 2018 until the ILR application is submitted. The absences of dependent children will not be counted as part of an application for ILR.

### Further Assistance

For more specific and detailed advice please contact:



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