

Building On Success - Immigration Routes To Remain In The UK After Studies From 2021

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Areas we will focus on

- ▶ Work Experience During Studies
- ▶ EU Students and the Settled Status Scheme
- ▶ Graduate Immigration Visa
- ▶ Skilled Worker route
- ▶ Health & Care Visa
- ▶ Global Talent Visa
- ▶ Tier 5 Government Authorised Schemes
- ▶ Tier 5 Youth Mobility Scheme
- ▶ Start-up Visa

The Importance of Getting Work Experience

- ▶ Working during studies 20hr/48 hour rules
- ▶ Volunteering
- ▶ 4/6 months leave after completion of course

The key date to note: 31 December 2020

- ▶ Free movement of workers from Europe ended; and
- ▶ New Immigration Rules come into force 01/01/21

Position of EU Students Post Brexit

- ▶ EU students who enrolled in the academic year **2019-20 (or earlier)**, can arrive after 1 January 2021:
 - Can apply under the EUSS, allowing them to remain in the UK after studying, provided they have applied by 30 June 2021
- ▶ EU students starting a full degree course in **2020-21** and **arrive before 31 December 2020**:
 - Can apply under the EUSS, allowing them to remain in the UK after studying, provided they have applied by 30 June 2021
- ▶ EU students starting a full degree course in **2020-21** and **arrive after 31 December 2020**:
 - Will need to apply for a student visa through the Tier 4 route
 - Will be eligible to apply for the Graduate route
- ▶ EU students starting a full degree course in **2021-22** and **arrive after 31 December 2020**:
 - Will need to apply for a student visa through the Tier 4 route
 - Will be eligible to apply for the Graduate route

EEA nationals who are able to show residence in the UK prior to 31 December 2020

- ▶ Should be encouraged to apply under the **Settled Status Scheme**.
- ▶ Deadline to apply - **30 June 2021**
- ▶ Two types of status can be granted. If one has been in the UK less than 5 years will be granted **pre-settled status** and **settled-status** if been here 5 years or more.
- ▶ Benefits of applying:
 - No application fee
 - Can continue to study in the UK without requiring sponsorship
 - Can look for and take up employment without requiring sponsorship or set-up in business
 - Entitled to free NHS treatment (no IHS!) and welfare benefits
 - Will be able to work unlimited hours as a student
 - Family members, including non-EU family members can be included in the application
 - Absences of 2 years (pre-settled) or 5 years (settled) from the UK will be allowed
 - After 1 year of settled status will be able to apply for British Citizenship.

GRADUATE IMMIGRATION ROUTE

- ▶ Will be introduced 1 July 2021 and therefore students who graduate in the summer of 2021 or after will qualify. UK bachelor's degree, a UK postgraduate degree or an approved post graduate qualification.
- ▶ Successful applicants will be able to stay and work, or look for work, at any skill level for a maximum of 2 years (3 years if graduate with a PhD). Will need to switch into a skilled work visa category prior to visa expiring.
- ▶ Application will include a visa fee (£700) and payment of IHS (£624 p/y). This route will not require a sponsor.
- ▶ The route is non-extendable and does not count towards settlement. Can switch to Skilled Worker (New Entrant salary and no ISC)
- ▶ Dependents who are already in the UK at the time of switching can continue to be remain as dependents.
- ▶ Will need approval of sponsoring body to switch in to this route.

GRADUATE IMMIGRATION ROUTE

- ▶ Application must be made whilst in the UK
- ▶ 70 points - Successful completion of course, Qualification requirement and Study in the UK
- ▶ Work (including voluntary work) is permitted, apart from work as a professional sports person
- ▶ Self-employment permitted, where the following conditions are met (subject to final confirmation):
 - the person has no premises which they own, other than their home, from which they carry out their business; and
 - the total value of any equipment used in the business does not exceed £5,000; and
 - the person has no employees.

GRADUATE IMMIGRATION ROUTE - Study in the UK Requirement

- ▶ If the duration of the course is **12 months** – then they must spend the full duration of their student status in the UK (apart from permitted study abroad programme); and
- ▶ If the duration of the course is **12 months or more** – then at least 12 months of the period of Student permission must be spent in the UK.
- ▶ Where distance learning took place overseas between **24 January 2020 and 27 September 2021**, this will not prevent the applicant from meeting the requirement above if:
 - they began their course in **2020 and entered the UK before 21 June 2021** and complete that course of study in the UK with permission as a Student; or
 - they began their course in **2021 and entered the UK before 27 September 2021** and complete that course of study in the UK with permission as a Student
- ▶ Any period of distance learning between 24 January 2020 and 27 September 2021 as part of a course of study lasting longer than 12 months whilst the applicant held permission as a Student, will not prevent the applicant from meeting the requirement above.

Tier 2 Changes to "Skilled Worker Route" From January 2021

- ▶ Made up of the main Skilled Worker Visa category and a sub-category Health and Care Visa.
- ▶ To sponsor workers under the Skilled Worker categories a business will need a Skilled Worker licence and a Intra-Company Transfer licence.
- ▶ Minimum salary threshold to be reduced from **£30,000 to £25,600 (but in certain circumstances can be lower)**. Migrant will still need to be paid the 'going rate' salary for their occupation (as per SOC).
- ▶ **New entrants' salary will be set 30% lower** than the rate for experienced workers in any occupation.
- ▶ Skills threshold reduced from **RQF6 to RQF3**
- ▶ Will **suspend (not abolish) immigration cap** and **abolish resident labour test**

What Changes From January 2021

- ▶ **Single-based Immigration System, meaning - EU and non-EU citizens** will need to demonstrate that:
 - they have a job offer from a business which is registered as a skilled worker sponsor licence holder
 - job offer is at the required skill level
 - they speak English
 - earns the minimum salary under the SOC Code

- ▶ However, if they earn less than the required minimum salary threshold, they will need to demonstrate that they:
 - have a job offer in a specific **shortage occupation**; or
 - that they have a **PhD relevant to the job**; or
 - they have a **PhD in a STEM subject relevant to the job**; or
 - applicant is a **new entrant to the labour market**

2122 Mechanical
engineers

Example job tasks

- undertakes research and advises on energy use, materials handling, thermodynamic processes, fluid mechanics, vehicles and environmental controls;
- determines materials, equipment, piping, capacities, layout of plant or system and specification for manufacture;
- designs mechanical equipment, such as steam, internal combustion and other non-electrical motors for railway locomotives, road vehicles, aeroplanes and other machinery;
- ensures that equipment, operation and maintenance comply with design specifications and safety standards;
- organises and establishes control systems to monitor operational efficiency and performance of materials and systems.

Related job titles:

- Aeronautical engineer (professional)
- Aerospace engineer
- Automotive engineer (professional)
- Marine engineer (professional)
- Mechanical engineer (professional)

Salary rates:

New entrant: £27,500

Experienced worker: £33,000

[Source: Annual Survey of Hours and Earnings 2016]

RQF
6

Skilled Worker From January 2021

A total of 70 points is required

Some characteristics are tradable

Non-tradeable points (mandatory) – 50 required				
Offer of a job by an approved sponsor				20
Job at an appropriate skill level				20
English language skills at level B1 (intermediate)				10
Tradeable points (may only score from one entry from each of the two sections below) – 20 required				
Salary ⁴			Other	
General salary threshold	Going rate			
Salary of at least £20,480	At least 80% of the going rate for the profession (70% if a new entrant).	0	Education qualification: PhD in a subject relevant to the job	10
Salary of at least £23,040	At least 90% of the going rate for the profession.	10	Education qualification: PhD in a STEM subject relevant to the job	20
Salary of at least £25,600	At least the going rate for the profession.	20	Job in a shortage occupation (as designated by the MAC)	20
Salary of at least £20,480	Listed health/education job <u>and</u> meets the relevant national pay scale	20	Applicant is a new entrant to the labour market (as designated by the MAC)	20

Health and Care Visa

- ▶ Introduced 4 August
- ▶ Reduction in visa fee to £232 regardless of if visa applied for is under or over 3 years (CF: £610 or £1,220). Includes dependents
- ▶ No requirement to pay IHS (£400 (£624 from Oct) per each year of sponsorship). Includes dependents
- ▶ Fast-track decision making, 3 weeks as opposed to 8 weeks.
- ▶ Minimum floor salary of £20,480
- ▶ NB: Still need to pay the Immigration Skills Charge (£1000 per year for large sponsors). International student switches are exempt from this.

Skilled Worker Visa Pros And Cons

Pros

- Can lead to ILR after 5 years provided meet requirements at that time including minimum salary for the going rate for the Occupation
- No restriction on the length of stay on a Skilled Worker visa
- Can bring dependant spouse/partner and children.

Cons

- Tied to the job and employer. If want to move to a new job, need new employer to sponsor
- Reliant on sponsor keeping their licence

Skilled Worker Licence - Process (in brief)

- ▶ Web based application procedure (fee to register is £1476 for medium or large business and £536 for a small business and charity).
- ▶ Must demonstrate why a skilled worker licence is required.
- ▶ Must then file specified documents to the UKVI in a prescribed format.
- ▶ Business may be subject to a pre-registration audit (and ongoing visits).
- ▶ Once registered business will then issue a Certificate of Sponsorship to the migrant.
- ▶ The sponsor has ongoing duties and reporting requirements during the life of their sponsor licence.
- ▶ Renewal after every 4 years

A Note on Discrimination

- ▶ A business can not refuse to sponsor a migrant because they require sponsorship.
- ▶ A refusal must be based on merits. Right to work checks should happen later in the recruitment process.
- ▶ Exceptions to this are:
 - National Security Reasons
 - A time critical delivery of a contract
 - The skill level for the job on offer is below that which for which a Skilled Worker visa will be issued
 - There is not enough time to acquire a visa before the a Licence before the migrant's leave expires.

Global Talent Visa

- ▶ To attract the brightest and the best to work or set-up business in the UK
- ▶ Two stage application process:
- ▶ Applicant needs to apply to be endorsed as a **leader** or **emerging leader** in their field of work; and
- ▶ If endorsed the applicant will need to make an application to switch or entry clearance.

Global Talent Visa

- ▶ In order to have good prospects of success the applicant will need to demonstrate solid prior work experience or business experience and/or academic background.
- ▶ The endorsing bodies are:
 - The Royal Society, for science and medicine
 - The Royal Academy of Engineering, for engineering
 - The British Academy, for humanities
 - Tech Nation, for digital technology
 - Arts Council England, for arts and culture
 - UK Research and Innovation (UKRI), for research applicants
 - British Fashion Council, for fashion
 - Royal Institute of British Architects (RIBA), for architecture
 - Producers Alliance for Cinema and Television (PACT), for film and television

Global Talent Visa

- ▶ Leader can apply for settlement after 3 years
- ▶ Emerging Leader can apply for settlement after 5 years
- ▶ Under this visa one can work or set-up in business in any field but if visa needs to be extended then applicant will need to show that has earned income from area of expertise.
- ▶ UKVI will introduce a Fast-track Science, Technology, Engineering and Mathematics scheme. Will include senior academic roles such as Prof. or Assoc. Prof.

Tier 5 (Temporary Worker - Government Authorised Scheme)

- ▶ Allows for post graduation training, internship or work experience.
- ▶ Still require sponsorship but in this instance the sponsor is an ‘overarching body’ or an HEI.
- ▶ Schemes relating to research, fellowship and training in the fields of science and medicine will attract leave of 24 months.
- ▶ All Other schemes given 12 months leave.

Tier 5 (Government Authorised Scheme)

Pros

- ▶ Gives a route to undertake a placement with an employer without them having to be the direct sponsor
- ▶ For post graduate researchers it can lead on to Global Talent Visa
- ▶ Useful for certain post-registration employment

Cons

- ▶ Does not lead to settlement

Tier 5 (Youth Mobility Scheme)

- ▶ This scheme is available to citizens of Taiwan, Australia, New Zealand, Japan, Canada, Monaco, South Korea, San Marino and Hong Kong.
- ▶ Who are between 18 - 31 at the time of their application.
- ▶ Those from South Korea and Hong Kong need government sponsorship.
- ▶ Must have £2,540 in funds at the time of the application.
- ▶ Scheme is quota based commencing in January each year.
- ▶ Cannot switch into this category but will need to return home and obtain entry clearance.

Tier 5 Youth Mobility Scheme Pros And Cons

Pros

- ▶ Can work for any employer
- ▶ 24 month grant of leave
- ▶ No need for a UK sponsor
- ▶ Will be able to switch to Skilled Worker visa whilst in the UK

Cons

- ▶ Cannot switch in the UK- must apply for entry clearance
- ▶ Limited availability for most countries
- ▶ Some countries need national sponsorship- need to consider how this is obtained
- ▶ Does not lead to settlement

Start-up Visa

- ▶ Replaced the Tier 1 (Graduate Entrepreneur) visa on July 2019.
- ▶ Open to anybody who has not run a business in the UK before.
- ▶ Need endorsement from an 'endorsing body':
<https://www.gov.uk/government/publications/endorsing-bodies-start-up/start-up>
- ▶ Business must be innovative, viable and scalable.
- ▶ Initial grant of up to two years, if endorsed for that period.
- ▶ Maintenance / English Language.

Start-up Visa Pros and Cons

Pros

- ▶ No need for minimum capital requirement
- ▶ Can do supplementary work as well as work in your business
- ▶ Can bring dependant spouse/partner and children.
- ▶ Can switch from Tier 2, Skilled Worker, Graduate route and Tier 4

Cons

- ▶ Does not lead to settlement. Need to switch into innovator

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