

## IMMIGRATION UPDATES FROM HARBOTTLE & LEWIS LLP

Updates from Charlotte Boyce, Associate, and Sasha Lal, Associate, in the Immigration Team at Harbottle & Lewis LLP

You may be aware that there have been various changes to the UK's immigration system in 2024. Below we have focused on the changes that may be more relevant to the business, particularly in relation to sponsoring an individual to work within the creative sector in the UK.

The headline change is the substantial increase in the minimum salary threshold for Skilled Worker visas, rising nearly 50% from £26,200 to £38,700 per annum.

### **Skilled Worker Minimum Salary Threshold Reforms**

The general salary threshold has now increased from £26,200 to £38,700 per annum (unless an exception applies such as: the role being on the Immigration Salary list, the individual is under 26, studying, a recent graduate/in professional training, the individual has a PhD in a STEM subject relevant to the role or they have a postdoctoral position in science or higher education) or the going rate for the relevant occupation which is listed within [Appendix Skilled Occupations](#), whichever is higher.

In addition to changes to the minimum salary threshold, there have been many changes to the occupation codes, with some roles no longer remaining within the codes previously specified. It is therefore important to check that the relevant role continues to be within the same code and check to see if the going rate for the role has also increased.

The codes that you most commonly may have used are:

#### **3414 – Dancers and Choreographers**

#### **3413 – Actors, entertainers and presenters**

These above codes have not changed in relation to the code itself. However, please see the minimum salary thresholds for each code below, which have increased:

Examples of related job titles (non-exhaustive)	Going rate (SW – option A)	90% of going rate (SW – option B)	80% of going rate (SW – options C and D)	70% of going rate (SW – option E)	Eligible for PhD points (SW)?
<p>3414 Dancers and choreographers</p> <ul style="list-style-type: none"> <li>• Ballet dancer</li> <li>• Choreographer</li> <li>• Dance coach</li> <li>• Dancer</li> <li>• Dance teacher</li> </ul>	£30,960 (£15.88 per hour)	£30,960 (£15.88 per hour)	£30,960 (£15.88 per hour)	£30,960 (£15.88 per hour)	No
<p>3413 Actors, entertainers and presenters</p> <ul style="list-style-type: none"> <li>• Actor</li> <li>• Commentator (broadcasting)</li> <li>• Costumed interpreter</li> <li>• Disc jockey</li> <li>• Entertainer</li> <li>• Presenter (broadcasting)</li> <li>• Singer</li> </ul>	£32,900 (£16.87 per hour)	£30,960 (£15.88 per hour)	£30,960 (£15.88 per hour)	£30,960 (£15.88 per hour)	No

There has been no change to the minimum salary requirements under the Temporary Worker – Creative Worker Route which remains the minimum salary as set by Equity, PACT or BECTU (except for models, musicians or circuses).

### **Replacement of the Shortage Occupation List with the Immigration Salary List**

The Home Office has also removed and replaced the Shortage Occupation List with [The Immigration Salary List](#). However, **3414: Dancers and Choreographers** remains on this list and therefore the minimum salary threshold for this occupation code is reduced to £30,960 per annum (instead of £38,700 per annum) or the going rate within the occupation code, whichever is higher.

### **Supplementary Employment**

Skilled Workers are allowed to undertake limited supplementary employment, provided they remain working for their sponsor in their sponsored role. The employment must be outside their contracted working hours and for no more than 20 hours a week.

Prior to 4 April 2024, the employment must have either been in the same occupation code and at the same professional level as the sponsored role, or in an occupation on the Shortage Occupation List.

An amendment has been made to allow supplementary employment for Skilled Workers to be in **any occupation that is eligible for the Skilled Worker Route**. You should take care that adequate documentation is maintained for any workers carrying out supplementary employment with yourselves.

Note that this liberalisation does not apply to other sponsored workers to whom the supplementary employment condition applies i.e. Temporary Workers - Creative Workers.

### **Temporary Worker - Creative Worker Visa: Resident Labour Market Test**

The Resident Labour Market Test exemption for Shortage Occupations (Immigration Salary List) has been removed for the Temporary Worker - Creative Worker Route. As a replacement, individuals will need to demonstrate that they are making a unique contribution to creative life in the UK.

### **Electronic Travel Authorisation (ETA)**

ETAs will be implemented for all visa nationals.

An ETA is a new requirement for individuals who would usually enter the UK without requiring a visit visa i.e. non-visa nationals. A non-visa national is someone who does not usually need a visa to visit the UK, provided their visit is for less than 6 months and the purpose of that visit falls within the activities permissible under the visitor rules.

This will ultimately depend on whether or not the individual is from a country on the 'UK visa nationals list.' Examples of non-visa nationals are those from the EU, EEA, Switzerland, USA, Canada, Australia, UAE, Oman, Qatar, Kuwait, Bahrain, Turkey, South Africa, Vietnam, Indonesia, Singapore etc. Please note that this is not an exhaustive list and, in addition, the visa national list is subject to change.

The ETA will give the individual permission to travel to the UK and it will be electronically linked to the passport. If the individual who requires an ETA travels to the UK without one, they could be refused entry at border.

Individuals will require an ETA if they intend to:

- Come to the UK for up to 6 months for tourism, visiting family/friends, business or short term study;
- Come to the UK for up to 3 months on the **Creative Worker Visa Concession**; and
- Transit through the UK, including if the individual is not going through the UK border control.

The ETA is applied for using an app, and the individual will be required to complete a set of 'suitability' questions. A decision is usually received within 3 working days, subject to any further information being required. The ETA will be valid for 2 years and can be used for multiple visits.

If you have individuals that work overseas and require them to enter the UK for a business visit, they will need to apply for an ETA. This could cause a delay in their visit and it is therefore important to ensure that you keep up to date in relation to the opening of this route. In addition, the UK will be insisting that [all connecting \(transiting\) travellers obtain an ETA](#).

**By the end of 2024 all non-visa nationals who wish to visit the UK will be required to apply for an ETA.**

Please note that an individual does not require an ETA if they have either:

- an existing valid UK visa
- permission to live, work or study in the UK
- a British or Irish passport

If an individual's ETA application is refused they will need to [apply for a visa](#) if they wish to seek permission come to the UK.

On arrival to the UK, the UK Border Force will check the ETA and ask supplementary questions before deciding whether or not to allow the traveller in. The government says: "An ETA does not guarantee entry to the UK."

### **Expansion of the Youth Mobility Scheme**

This route allows individuals between 18 – 31 years old to enter the UK to work, study and/or reside for 2 or 3 years. The countries participating are Australia, Canada, Iceland, India, Japan, New Zealand, Taiwan, South Korea, Hong Kong and Monaco.

- From 31 January 2024, Andorra and Uruguay nationals are now eligible to apply;
- South Korea and Japan nationals are no longer required to apply to a ballot scheme;
- The age limit has increased to 35 for Australian and Canadian nationals and they can remain in the UK for 3 years.

### **Business Visitor Expansion**

Business travellers engaging in intra-corporate activities such as advising and consulting are allowed to do so directly with clients.

Visitors are allowed to work remotely on activities related to their overseas employment, provided this is not the primary purpose of the visit.

*\*It is important to understand what is permitted as a visitor entering the UK and what is prohibited while in the UK. We advise contacting us for further information should you have an individual intending to enter as a Business visitor.*

### **Permitted Paid Engagements Now Implemented into the Standard Visit Visa**

PPE is open to artists and entertainers including performing and creative artists such as poets, make-up artists, photographers and traditional artists.

The individual can be invited by any kind of arts related institution or company e.g. galleries, arts faculties or departments in universities, schools and venues involved in producing or staging of events. UK based agents and broadcasters can also invite individuals to undertake a paid engagement in the UK. The engagement in the UK must be relevant to the individual's expertise or employment overseas.

Rather than applying separately for a Permitted Paid Engagement Visa, this has now been incorporated into the Standard Visit Visa rules. Therefore, whilst the individual will be allowed to stay in the UK for up to 6 months for one single visit, their Permitted Paid Engagement within the UK should last no longer than 30 days.

Individuals that are non-visa nationals (whilst they may be able to use the e-gates) should see a Border Officer in relation to entry to the UK for the Permitted Paid Engagement.

If the individual is expected to be in the UK for longer than 30 days and paid from within the UK, they will need to apply for a UK work visa such as the Temporary Worker - Creative Worker, Skilled Worker or Global Talent Visa.

### **Immigration Heath Surcharge**

For Students, Student Dependants and Youth Mobility Individuals, the fees have increased from £470 to £776 per year.

For all other individuals, the fees have increased from £624 to £1,025 per year.

### **Civil Penalty Increase for Employment of Illegal Workers**

If you employ illegal migrants who do not have a valid right to work or reside in the UK, you could be penalised.

The penalty increases are as follows:

- The first breach will increase from £15,000 to £45,000 per illegal worker.
- Thereafter, repeat breaches will increase from £20,000 to £60,000 per illegal worker.

### **Sponsor Licence Renewals**

Any Sponsor Licence that expires on or after 6 April 2024, will now have been automatically extended for 10 years. You should check your licence summary page on the SMS to ensure that the extra 10 years have been added.

### **Physical Immigration Documents Phased Out**

Physical documents such as Biometric Residence Permits (BRPs), Biometric Residence Cards (BRCs) and other paper based documents will be invalid as of January 2025 – holders will need to obtain a UKVI account to prove their status online after this date instead of relying on a physical document. Individuals will be able to create an account with UKVI if they do not already have an online account and have not yet received an email from UKVI as of **Summer 2024**.

It would be advised to carry out an audit on your employees' files in relation to their Right to Work check documents to ensure that where possible and required, an online check has been carried out. It is important to ensure that you are compliant with your Right to Work checks to prevent any civil penalty.

*Please note that the information that has been provided above is up to date as of 30 April 2024, however, the information should be used for guidance purposes only.*