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**SMITH
STONE
WALTERS**

UK Immigration Practice

INSIGHT

UK IMMIGRATION NEWS & VIEWS
FROM SMITH STONE WALTERS
AUTUMN 2018

Is the UK
heading in the
right direction?



WE'RE LEAVING, BUT QUESTIONS STILL REMAIN



In the August 2016 issue of Insight, we posed a query on behalf of the three million-plus EU citizens, whom we assumed wanted to continue living and working in the UK after Brexit: what will become of them? Two years later, we're asking the same question...

The Leave result, a decision on which EU citizens in the UK did not have the privilege of a vote, has thrown their immigration status into uncertainty for the past 24 months.

Of course, it would have been morally and politically disastrous to suggest they would be deported. But no amount of commentary from the then-Brexit secretary David Davis or his successor had offered reassurances about their rights to residence, work, pensions, free education and healthcare. Not until Spring this year, when the government announced the EU Settlement Scheme. (We explain this in greater detail on p10.)

This will offer EU nationals either a 'settled' or a 'temporary' status, depending on how long they have been living in the UK. But in the intervening time since the referendum, even though EU citizens didn't have a ballot, some voted with their feet. The latest migration statistics show that 86,000 Europeans left the country last year for other jobs; the largest annual fall since comparable records began in 1997. (See more on p4). The negative impact of this labour shortage has already been felt in institutions like the NHS.

SETTLED STATUS
'Settled status' replaces the term 'permanent residence'

and the Home Office has promised to make it a straightforward exercise for applicants. But early signs do not inspire confidence.

The government has been forced to admit that the mobile app designed for the express purpose of registration won't work on iPhones. Recently, Home Office sources revealed they are considering plans to register EU citizens in alphabetical order, to make the system as fair as possible and to avoid being inundated with paperwork.

Participants will be able to apply as soon as March 2019, but their applications may not be processed until their surname comes up. This is supposedly the least politically sensitive option. Other rumoured ideas included registering by industrial sector, or geographical region, but these were rejected to avoid criticism from whichever group was at the back of the queue.

Then there is the matter of Home Office competency and trust. It is reasonable to wonder, in the wake of the Windrush scandal, that if this department failed to uphold the rights of long-term Commonwealth subjects, how will it cope with all those Europeans? Furthermore, does it have the resources to deal with the administration of three million applications on top

of all of its other duties? And even if it were not already at capacity, is it simply running out of time?

HELP FOR EMPLOYERS

With merely seven months to go until Brexit Day, when the nationwide scheme is rolled out, the government started its private trial in late August in the North West of England.

A dozen NHS trusts which employ EU nationals in Aintree, Blackpool, Chester, Southport, Warrington and Wirral, plus EU students and staff at three Liverpool universities agreed to be the guinea pigs for the new digital service.

The initial test launched without any of the usual interviews from ministers or applicants giving their opinions, with no specific information tailored to the EU media.

While we wait to hear how well the pilot scheme has worked, the government issued a 'toolkit' for employers with information to support EU citizens and their families. It contains posters and a step by step guide to applying.

While it is not mandatory for an employer to become involved in its employees' immigration status, we have found that many organisations are concerned, as they are not aware of how

many EU nationals they have recruited. They are also not yet equipped to answer every question that an employee may have. Some businesses have decided to pay for some or all of the cost of their employees' settlement applications.

The good news is that the Home Office has promised that its attitude will be to look 'to grant not for reasons to refuse' most applications. The bad news is that at the moment it regularly refuses or declares invalid a third of its applications for 'permanent residence'. What questions will we be asking in another two years' time?

SMITH STONE WALTERS

This edition of Insight takes a look at the latest migration statistics, improvements and developments to our services and includes an update on how to be an effective licence holder for your sponsored migrant workforce.

For regular updates on all UK immigration matters, make sure you subscribe to our free UK Immigration News Service. For more information, go to www.smithstonewalters.com/signup

MIGRATION IN NUMBERS

Net migration to the UK remains broadly stable since falling from the pre-Brexit peak levels of 2015 and 2016. In this Special Focus, we summarise the latest official long-term international migration statistics.*

*Please note that the figures presented here are estimates relating to either the year ending March 2018 or June 2018, unless otherwise stated.



47% UP

Total applications for **BRITISH CITIZENSHIP** from EU nationals rose by 47% to 42,037. EU nationals now account for 29% of applications, compared with 11% in the year ending June 2016 (before the EU referendum).

87,000

EU NET MIGRATION continued to decline from the peak in the year ending June 2016 (+189,000) to +87,000 in the year ending March 2018, its lowest level since 2012.

2.28 M

The latest estimates show that there were 2.28 million **EU NATIONALS WORKING** in the UK, 86,000 fewer than a year earlier. This is the largest annual fall since comparable records began in 1997.

271,000

Overall **NET MIGRATION** in the year ending March 2018 has been estimated at 270,000. This represents a small increase in net migration compared with the previous year.

77,000

INDIVIDUALS arrived in the UK looking for work in the year ending March 2018. This figure is down from 130,000 at the peak in the year ending June 2016. The number of EU citizens arriving looking for work now appears to have stabilised at around 35,000 per year.

141,416

visas were granted, 9% more than in the previous year. This figure includes 68,726 dependants of people coming to the UK on other visas.

224,097

TIER 4 (sponsored study) visas granted in the year ending June 2018. Chinese nationals account for 40% of all Tier 4 visas granted.

2% UP

167,271 **WORK-RELATED VISAS** were granted in the year ending June 2018, 2% higher than the previous year. This included 96,376 Tier 2 (Skilled) visas.

139.2M

PASSENGERS arrived in the year ending June 2018, including returning UK residents, an increase of 4.7 million compared to the previous year and a record number.

77%

FOR OVERSEAS NATIONAL VISITORS

Of the 2.8 million **ENTRY CLEARANCE VISAS** granted in the year ending June 2018, 77% were issued to enable the overseas national to visit the UK.

253,000

WORK continued to be the main reason that people migrated long-term to the UK, with 253,000 people arriving for work. Data from passenger surveys conducted suggest 176,000 had a definite job offer in the UK.

40% MORE

81,359 people were granted **SETTLEMENT** in the UK, 40% more than in the previous year. The increase in the latest year followed 4 consecutive year-on-year falls.

ALTERNATIVE COLLECTION LOCATION (ACL) SERVICES



Since June 2018, Smith Stone Walters has been offering an ACL service for our Tier 2/5 Premium Sponsor clients.

This means that we are officially allowed to receive Biometric Residence Permits. The BRP is evidence that leave that has been granted to the overseas national and is their proof of status and entitlements after the standard 30 day passport vignette expires.

As a result, sponsored workers need not queue up at the post office to receive their own or their dependants' BRP card and package, but instead, visit either of our London offices to collect their documents, at their convenience.

Given the long list of tasks a newly relocated family has to attend to upon arrival in the UK, the ability to make this particular duty more convenient has been welcomed by a number of migrant workers.

FUNDRAISING FUN

Smith Stone Walters continues to be committed to raising funds and awareness in support of Rainbow Trust Children's Charity thus they offer vital emotional and practical support for families who have a child with a life-threatening or terminal illness.



Every fortnight for the last year, we have been playing an office-based game that we've called 'Last One Standing'. SSW employees pay a donation to the charity in order to participate. Random balls are pulled out of a bag, and the person whose corresponding ball is left at the end of the game wins a half day's holiday. We are delighted to have raised over £1,000 for Rainbow Trust through this alone.

For more information on the vital work they do, go to www.rainbowtrust.org.uk

PREPARING YOUR EU EMPLOYEES FOR BREXIT

In October, Smith Stone Walters will be hosting a seminar at which a Home Office representative will be conducting a presentation on the EU Settlement Scheme.

It will include an update of progress so far, along with technical slides which will show indicative screenshots of the application process, and also include some information on how employers would be able to check the digital status of EU citizens. This will be followed up by a Q & A session.

We recommend that our clients attend this event, to help them learn more about managing their migrant population's status after Brexit.

When?

Wednesday 3 October 2018, 11am

Where?

6th floor, 2 More London Riverside
London SE1 2RR

For more information go to smithstonewalters.com or call us on 020 8461 6660



WHAT OUR CLIENTS SAY ABOUT US



Our goal remains the same – delivering our clients the WOW factor. The global teams at SSW have been working hard to deliver timely results and offering exceptional service in often challenging circumstances. We are pleased to let you know some of the kind words we have received in the last quarter:

'Ragini (SSW India) provided excellent support and guidance throughout the visa submission process. She was very courteous and provided detailed guidance on the process.'

TRC, global financial services

'Delighted with the service provided. A much recommended, wonderful experience.'

SI, international aerospace company

'Adele (SSW Hong Kong) has been so on top of things at all times, it makes the visa application process very pleasant. If anything, it was the UK authorities that took their time!'

JC, travel company

'Thanks a lot for the expert and efficient guidance on my indefinite leave to remain (ILR) process. What could have been very tedious has been made as smooth as possible with your assistance, which is hugely appreciated.'

TY, private client

'A big thanks to Kana-san (SSW UK) over her kind support procedure for my UK visa renewal.'

HF, global media



'Molly and Rob (SSW UK) handled my case. Very quick responses to my inquiries and they kept my documents safe.'

ZL, Chinese financial services

'Kiran (SSW UK) has been extremely efficient with the case providing all the necessary information in a concise and timely manner and providing updates on the development of the case.'

KK, global food manufacturer

'Fantastic service and very professional level of conduct.'

BK, global food manufacturer

RCOS POINTS DROP TO LOWEST LEVEL SINCE NOVEMBER 2017



July and August's reduction in the amount of points necessary to secure a Restricted Certificate of Sponsorship (RCoS) was a welcome development.

Last month, only 21 points were needed – roughly the equivalent of a salary of £31,000 – in order to be successful in awarding a visa under the Tier 2 scheme.

This represents a huge drop from the June figure of £60,000. It was the first time since November 2017 that it has been this low.

In total, 2, 256 RCoS were granted, some to potential employees from outside the EU whose previous

requests had been unsuccessful for month after month.

As we predicted, formal clarification of the decision was delayed until late in the month, but we hope that September's quota will have a threshold of £30,000, in line with the Tier 2 General minimum salary requirement.

Smith Stone Walters will support you through every aspect of securing a sponsor licence and ensure that the right human resource systems are in place to comply with your ongoing Tier 2 sponsorship duties. To learn more about our services, please contact our team today.



BRITAIN LOSES OUT ON GLOBAL ARTISTIC TALENT



This Summer, stringent immigration controls affected cultural events such as the Hay on Wye and Edinburgh literary festivals, as well as long-established music gatherings like WOMAD and Celtic Connections.

“Peter Gabriel warned that Britain risked becoming a ‘white-breaded, Brexited flatland... losing the will to welcome the world.’”

In a letter to the Guardian newspaper, WOMAD co-founder and musician Peter Gabriel said that the ‘lengthy, opaque and costly’ visa process ‘directly reduced UK audiences’ opportunities to see and engage with international artists.’

Artists and authors, mostly from the Middle East and Africa, were expected to justify their presence at the venues, despite being invited to attend.

WOMAD's director Chris Smith said ‘We’ve had situations where, say, an African artist has been due to come who plays a particularly rare instrument, and we’ll be asked: “Can’t you find someone in the UK who plays that instrument?” which is absurd.’

Gabriel warned that Britain risked becoming a ‘white-breaded, Brexited flatland... losing the will to welcome the world’.

Culture Secretary Jeremy Wright has said that the government ‘understands how important mobility is’ for the creative sector.

A LITTLE LIGHT READING

The Law Commission is looking into simplifying the Home Office’s immigration rules after a report found that the department has made over 5,700 changes to its documents since 2010. This reflects the amount of policy changes over the last eight years as well as minor corrections and clarifications.

As a result, the rules have doubled in length and now the total word count is over 600,000. That is the equivalent of a Home Office employee reading a novel like War and Peace or most of the Complete Works of Shakespeare.

The Law Commission is hoping to streamline the rules without the need for any new legislation, and it should deliver its findings in January next year.

IMMIGRATION FEES – ARE THEY FAIR?



In July, the independent Chief Inspector for Borders and Immigration closed his formal call for evidence into how much the Home Office charges for its services.

The inspection looks at why the fees are set at their specific rates, and whether or not they deliver an efficient and effective immigration system in return.

Smith Stone Walters caseworkers have had first-hand experience of difficulties within the process. The cost of filing an immigration application is exorbitant, especially for those customers willing to

pay for a super-premium service. In contrast, the level of service provided by the Home Office immigration department is often non-existent!

“Smith Stone Walters case - workers have had first-hand experience of difficulties.”

We anticipate that the Chief Inspector's report, expected to be published by October, will highlight the delays in applications being looked at, visas being issued incorrectly and documents being sent to the wrong address and suggest improvements.

In this Focus, we look at the government's new system for registering EU nationals after Brexit and what that could mean for an employer with an EU migrant population

The EU settlement scheme allows EU nationals and their families to continue to live and work in the UK. Upon registration, each qualifying EU citizen will be eligible for either settled status or pre-settled status.

What is settled status?

Under the EU Settlement Scheme, those EU citizens who have been resident in the UK for more than five years will be eligible for 'settled' or permanent status.

What is pre-settled status?

If an EU citizen has been a resident for less than five years, they will be eligible for 'pre-settled' or temporary status. The EU citizen will be able to apply for settled status once they have been a UK resident for more than five years.

What does that mean for your employers?

All EU citizens living in the UK who do not already have a biometric residence permit will need to apply to the scheme if they wish to continue to live in the UK after 31 December 2020.

What about their family members?

Non-British family members living in the UK by 31 December 2020 are eligible. Close family members not living in the UK by 31 December 2020 will be able to join their EU family in the UK at any point in the future, as long as their relationship still exists. Children born or adopted after that date will have their rights protected.

What are the benefits of applying?

EU citizens and their family members living in the UK will be able to continue their lives here as much as before, with the same entitlements to:

- Public services, like healthcare and education
- Public funds and pensions
- British citizenship, if they meet the requirement and want to apply.

Who is eligible?

EU citizens of Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain and Sweden. The rights for citizens of Norway, Iceland, Liechtenstein and Switzerland are still being negotiated.

Irish citizens will not need to apply but their family members from outside of the UK and Ireland will need to.

What are my duties as an employer of EU citizens?

- You have a duty not to discriminate against EU citizens in light of the UK's decision to leave the EU as both a prospective and current employer
- Current 'right to work' checks, for instance, EU passport and/or national ID card will apply up until the end of 2020. There will be no change to the rights and status of EU citizens living in the UK until 2021.
- You are not expected to pay or support the cost of the EU Settlement Scheme application for your EU citizen employees. However, you are welcome to do so at your company's discretion.
- There is no legal obligation for your organisation to tell employees about the EU Settlement Scheme. However, we advise that it would be the right thing for you to let them know more about it and direct them to the information that the government has already provided.
- You do not have to interpret the government information and you must be careful not to offer immigration advice without consultation with us.

How do my affected employees apply for the EU settlement scheme?

There are several ways: using a computer, tablet, smartphone or via a paper application. Your EU assignees are able to access support for their online application via phone or in person if they need it. Successful applicants will receive online proof of their status online. They will not be sent a physical document unless they are from outside of the EU and do not already possess a biometric residence card.

What will they need to supply?

1 Proof of identity and residence

Information that confirms their name and address such as, but not excluded to:

- EU passport
- NI number
- National identity card if applicable
- Official letter with their current home address on it, eg utility bill, letter from a government department
- A recent clear facial photograph that can be uploaded

2 Criminality Check

Applicants must declare any serious criminal convictions.

3 Payment

- If required, the cost is £65 per adult and £32.50 for children under 16
- It is free for those who already have 'indefinite leave to remain' or a valid permanent residence document
- It is free for those applying to move from pre-settled or temporary status to settled status

What is the deadline for applications?

The scheme will be phased in nationally later this year, and will be fully open by the end of March 2019. Applicants who are resident here by 31 December 2020 will have until 30 June 2021 to complete their registration. Their rights remain the same until that date, and there isn't a limit of how many applications are available.

How can Smith Stone Walters support you?

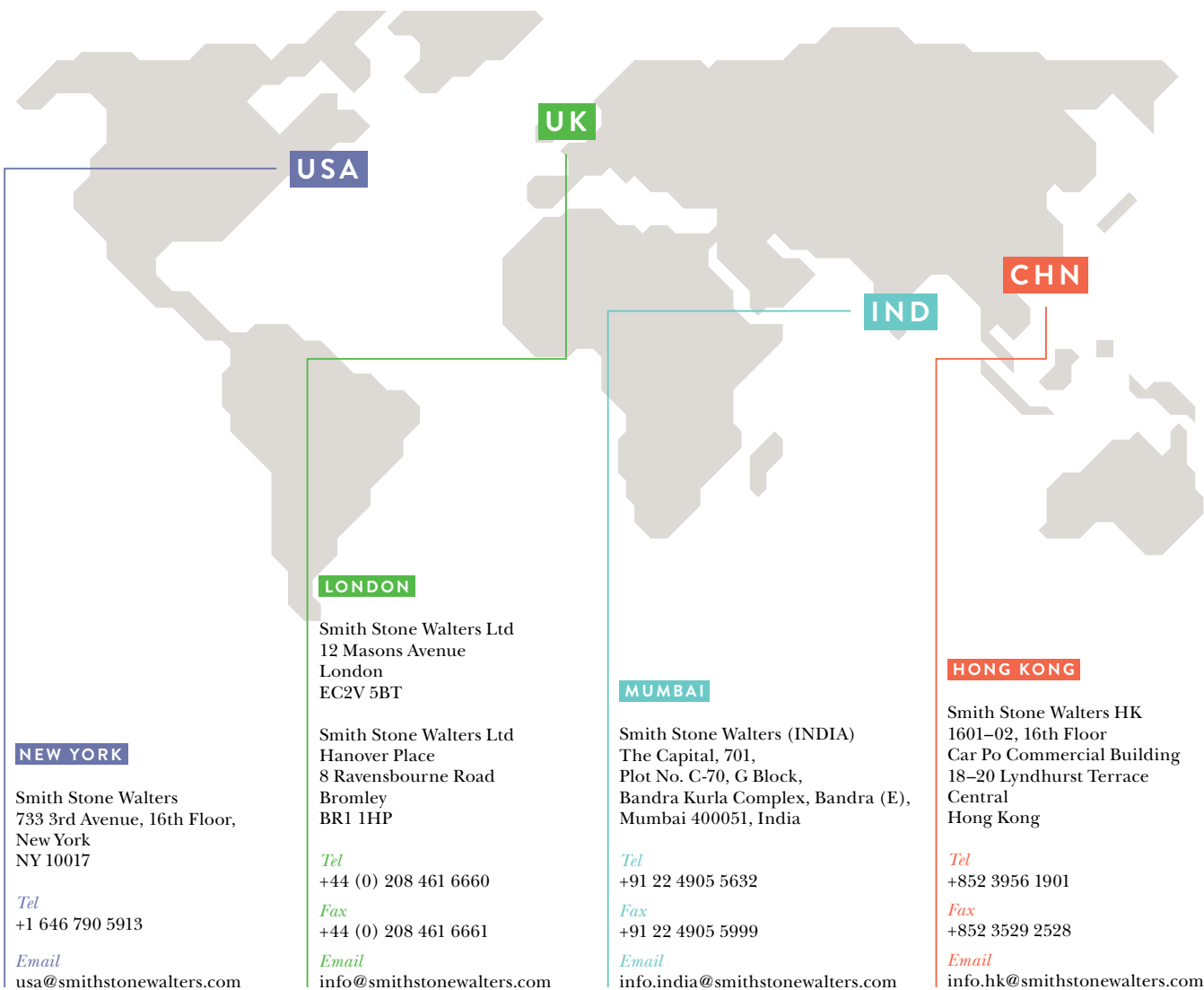
Smith Stone Walters is ready to assist your business. Our Brexit Immigration Service is tailored to the wishes of each client and is intended to reassure both you and your EU workers.

Call us today to learn more.

Our Brexit Immigration Service grants employers the knowledge and confidence to move forward in the face of Brexit. It will also reassure your EEA workforce, giving your employees clarity instead of uncertainty and let them know that you are on their side.



CONTACT US



www.smithstonewalters.com

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