

SPONSOR LICENCE NEWSLETTER

HEADLINES

Increase to illegal working penalties

Civil penalties for employing someone working illegally increase from £15,000 to £45,000 per worker as of 13 February 2024.

Update to Right to Work check guidance

New civil penalties are accompanied by guidance setting out stricter requirements for employers carrying out Right to Work checks.

Hybrid Working

Home Office updates Guidance to confirm that reporting is not required.

Sponsor licence renewals made automatic

All sponsor licences due to expire on or after 6 April 2024 will be automatically renewed on expiry for ten years.

Skilled Worker salary threshold increase

The minimum salary threshold increased to £38,700 for new Skilled Worker visa applicants from 4 April 2024.

Shortage Occupation List scrapped

The current Shortage Occupation List will be replaced with a more restrictive Immigration Salary List and the 20% discount on salary ended.

Read more on these changes in this inaugural edition of our sponsor licence Spring/Summer newsletter.



SPOTLIGHT

MAJOR CHANGES TO THE SKILLED WORKER VISA

The UK Government has announced significant changes to the Skilled Worker visa in an attempt to reduce the number of international workers in the UK labour market – including a huge increase to the Skilled Worker salary threshold, scrapping of the Shortage Occupation List and new restrictions on some care workers bringing dependants to the UK.

We explore some of these changes in the latest blog from our specialist Immigration team. Please click on the image below to find out more.

SKILLED WORKER SALARY INCREASES: 5 KEY QUESTIONS

The UK Government has implemented significant changes to the salary threshold and going rates for the Skilled Worker visa route, effective from 4 April 2024. The increase from £26,200 to £38,700 in the general salary threshold is the figure that has dominated the headlines, but what else do employers need to be aware of in this latest round of changes to immigration law? We provide answers to five key questions that clients have been asking so far.

I know the salary threshold is increasing to £38,700, but are there situations where I would have to pay more than this threshold?

Yes. You must pay a new Skilled Worker either the minimum salary threshold of £37,800 or the relevant going rate for their occupation code, whichever is higher. As of 4 April 2024, the going rates for each occupation code are set at the 50th percentile of the Office for National Statistics (ONS) Annual Survey Hours and Earnings (ASHE) 2023. For some roles, this is a significant increase.

As an example, the going rate for an architect applying for a new Skilled Worker visa is £45,900. This is higher than the minimum threshold of £38,700, so the minimum salary for this role is £45,900 based on a 37.5-hour week. Before 4 April 2024, the role of architect was on the Shortage Occupation list and so eligible for a discount on the going rate, but it is not on the new, slimmed-down Immigration Salary List.

For existing Skilled Workers visa holders, the going rate will

continue to be set at the 25th percentile but this will now be based on the ASHE data from 2023 instead of 2021. So, for example, the going rate for an architect applying to extend a Skilled Worker visa will increase to £38,800.

There are different rules for some roles on the Immigration Salary List and in the health and social care sector, and these new requirements are complex. There are a total of six different tables to consider in establishing the correct going rate. Employers will need to take care to ensure that an employee's salary is correct to avoid a visa refusal.

What is the position in respect of my existing sponsored worker – does their salary have to be increased?

No. Skilled Workers with a Certificate of Sponsorship issued before 4 April 2024 are not subject to the new salary threshold of £38,700 or the new going rates. This means current Skilled Worker visa holders can remain on their current salaries for now, even if that salary is lower than the new salary threshold or going rate for their role.

However, when they apply to extend their visa or make other changes (such as a change of employment application) they will need to meet a new transitional salary threshold of £29,000 or the relevant going rate for their role as set out above, whichever is higher.

If you have an employee whose visa is due to expire in the next three months, please get in touch with your immigration



Thorntons contact for advice on how this might affect the salary you are required to pay them.

We employ someone on a Graduate visa and wish to retain them, is the salary threshold less for them?

It could be. An employee who holds Graduate visa may qualify for a discounted minimum salary threshold as a 'new entrant' when they switch into the Skilled Worker route.

You must pay a new entrant either the minimum salary threshold of £30,960 or 70% of the going rate for their role, whichever is higher. For example, the minimum salary for a new entrant architect is £32,130 – a significant discount on the minimum salary for other Skilled Workers.

Be aware that an employee can only be a new entrant for a maximum of four years – and any time spent on a Graduate visa counts towards this total. If you assign a Certificate of Sponsorship using the New Entrant rate for someone who has exceeded their four years allowance, the Home Office are likely to refuse the visa application.

What would happen if my new entrant employee wanted to extend their visa – would I have to pay them the new going rate or salary threshold?

Yes. A Skilled Worker can only be a new entrant for a maximum of four years, with any time on a Graduate visa included in that total. After four years, they are subject to the same salary thresholds

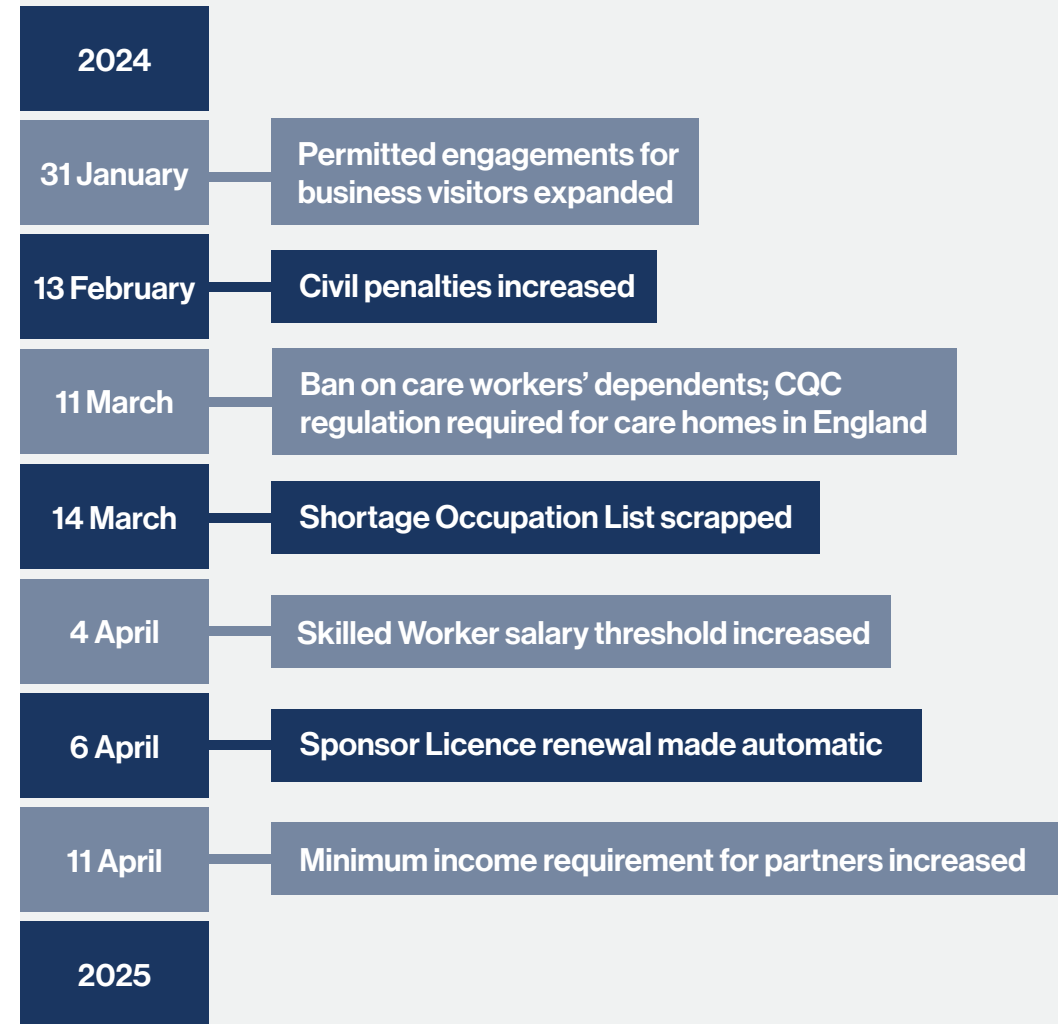
as other Skilled Workers. It is important to keep track of this time limit and plan ahead for new entrant employees to avoid being faced with the choice between ending sponsorship and making a significant unplanned increase to an employee's salary.

I have been approached by someone who already has a Skilled Worker visa from another sponsor – do I have to pay them under the new rates?

No. Provided a Skilled Worker holds a valid Certificate of Sponsorship issued before 4 April 2024, they will not be subject to the new rates when switching to a new employer. Instead, they will be subject to transitional arrangements – meaning they must be paid either a minimum salary of £29,000 or the relevant going rate for their role, whichever is higher.

The relevant going rate, as explained above, will be set at the 25th percentile of the ASHE data from 2023. This is likely to be an increase for most occupation codes, but for many it will be a more modest increase than the new going rates and salary threshold.

Skilled workers who fall into this legacy category are likely to become sought-after employees in the employment market, particularly in roles where the new rules mean a significant salary increase.



TIMELINE CHANGES IN 2024



SPONSOR LICENCE UPDATES

INCREASE IN CIVIL PENALTIES

Civil penalties for employers found to be employing illegal workers have now increased significantly as of 13 February 2024 to **£45,000 per worker for a first offence**, rising to **£60,000 per worker for subsequent offences**. Effective recruitment and onboarding processes are essential to ensure that your Right to Work checks are carried out appropriately – this remains the **only defence** against a charge of employing an illegal worker. **Right to Work guidance has been updated** following these penalties increasing and **employers should ensure relevant personnel are fully up to date**. There are additional consequences for sponsor licence holders if they receive a right to work penalty. They can lose their sponsor licence and this results in visa curtailment for all sponsored employees potentially causing huge disruption to the business. Additionally, Directors can be banned from being a company director for 7 years due to hiring illegal workers. This was the penalty applied in a [recent case](#) where an Indian restaurant and takeaway manager was banned as a company director after employing three illegal workers.

The **increase in the Skilled Worker salary threshold to £38,700** has caused concern for many employers – particularly in the hospitality and care sectors, where middle-income workers play a key role. Although **health and social care workers will be exempt**, other changes – including a new **ban on some care workers bringing dependants to the UK** and the **scrapping of the Shortage Occupation List and salary discount** will impact international recruitment in the sector in a challenging labour market.

AUTOMATIC SPONSOR LICENCE RENEWALS

Some good news for sponsors though: the UK Government has announced that **all licences due to expire on or after 6 April 2024 will be automatically renewed**. Licences which expire **before 6 April 2024** will need to be renewed by the licence holder one more time before moving to automatic renewal. This surprise announcement was made by way of the **SMS message board** – a good reminder to ensure that you review this when conducting your regular licence checks.

These updates are part of a **wider package of changes to the UK immigration system** which come into force this year. Senior Solicitor Louise Crichton summarised these changes in a blog earlier this year. Please click on the image to the right to find out more.

HYBRID WORKING

The Home Office have updated their Guidance to confirm that sponsors do not need to report on the SMS whether or not workers are working in a hybrid capacity. The Home Office Guidance on Sponsor duties and compliance issued in 8 March 2024 has been updated, C.20, “*We recognise that many organisations have adopted a “hybrid working” model, where their workers work remotely (from either their home or another remote site, such as a work hub space) on a regular basis, as well as regularly attending a “traditional” work location (such as one or more of your offices or branches, or a client site). You no longer need to tell us if a sponsored worker is moving to a hybrid working pattern but you must continue to report any changes to their main office work location, or of any new client sites, if applicable, and maintain suitable records of your sponsored workers’ working patterns.*” The Home Office Guidance now reflects the Home Office position which will be a relief for sponsors!

TRAINING & RESOURCE

WEBINAR: INTERNATIONAL TALENT & EMPLOYEE LIFE CYCLE ISSUES

Legal Director Gurjit Pall provides a refresher on international employee recruitment, including the recruitment, onboarding, changes of conditions and off-boarding. Watch it [here](#).

RIGHT TO WORK TRAINING

With new guidance on Right to Work checks and a steep increase in civil penalties for employers who fail to comply, it is essential that HR personnel are fully up to date on sponsor licence duties. We offer clients bespoke training with one of our specialist immigration lawyers—get in touch today to book your session.

SPONSOR LICENCE AUDITS

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SPRING/SUMMER 2024 EDITION



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