

## **Skilled Worker FAQs (updated 4.11.2022)**

### ***Introduction***

- The government introduced the skilled worker route in December 2020. It replaces the Tier 2 (General) route, though it remains a 'points-based' application.
- 'Skilled worker' is defined in the Immigration Rules to include those granted permission to stay as a skilled worker and as a Tier 2 (General) migrant.
- Holders of existing Tier 2 (General) visas will be able to apply for a skilled worker visa if they wish to extend their stay in the UK, provided they meet all of the general requirements. They do not have to make an application now, only when their current Tier 2 (General) leave is about to expire.
- Employers who already hold a valid sponsor licence do not need to apply for a new sponsor licence to hire skilled workers.
- The requirements for a skilled worker visa, including the requirements for extensions and for settlement are less onerous than under Tier 2 (General).

### ***Changes in requirements between Tier 2 (General) and skilled worker***

- The job offer must be at least level 3 of the Regulated Qualifications Framework (RQF). This is equivalent to an A level. Tier 2 (General) required RQF Level 6 (degree level).
- There is a minimum salary requirement. The way the minimum salary is calculated varies. In most cases there is a minimum salary requirement of £25,600 gross per year or the going rate for the job (set out in eligible occupation codes in the Immigration Rules), whichever is higher. The minimum salary requirement can be reduced if the job is in a shortage occupation, the application has a PhD in a related field or Science, Technology, Engineering or Mathematics (STEM) subject or the employee is a 'new entrant'. No skilled worker can be paid a salary below £20,480 gross per year.
- 'New entrants' will be required to have a job offer with a salary equivalent to 70% of the going rate for their occupation or £20,480, whichever is higher. Applicants will be considered new entrants if they are under 26 and/or are switching into the skilled worker route from being a student or graduate.
- The going rate for higher education teaching professionals (occupation code 2311) has increased to £40,700 per annum based on a 39 hour working week. However, there are transitional provisions for those applying for an extension of stay or settlement. This means applicants can rely on the previous going rate for SOC code 2311 of £33,000 per annum based on a 40 hour working week provided the following apply:
  - The applicant was granted leave as a Tier 2(General) migrant and has had continuous permission as a skilled worker ever since;
  - The SOC code (2311) has remained the same throughout; and
  - The date of the extension/settlement application is before 1 December 2026.
- There is no longer a Resident Labour Market Test (RLMT) that must be met before a company can hire a foreign national. The test is now that there is a 'genuine vacancy'. Employers should however retain records of how the candidate was recruited and be able to show that the candidate is filling a genuine vacancy.
- There is no annual quota for the number of skilled workers who can apply to come to the UK.
- Applicants who have studied and passed English language or English literature in the UK at GCSE, A-level or Scottish Highers as children can rely on to meet the English language requirement

### ***Switching jobs on a skilled worker visa***

- If you wish to change jobs/employers while here on a Tier 2 (General) / Skilled worker visa you may need to obtain a new certificate of sponsorship from your employer and make a change of employment application to UKVI. You must do this where:
  - You change employer; or
  - You remain with the same employer and either:
    - Change your core duties which means your new job is in a different occupation code; or
    - Change your core duties meaning you change jobs from one which is on the shortage occupation list to one which is not.
- You do not need to make a change of employment application if:
  - You are staying with the same employer and changing jobs to one in the same occupation code and (if applicable) remain in a job on the shortage occupation list.
  - Your pay increases
  - You are moving jobs under either:
    - Transfer of Undertakings (Protection of Employment) (TUPE) arrangements
    - Equivalent statutory transfer schemes
    - The Cabinet Office statement of practice on staff transfers in the public sector
  - You are in the same occupation code and you would still meet all the eligibility requirements if you were to make a new application
  - Your pay was reduced or stopped during an absence of less than 4 weeks in a calendar year
  - Your salary is reduced but you would still all the eligibility requirements if you were to make a new application
- You also do not need to make a change of employment application if you are engaged in supplementary employment
  - Supplementary employment is defined as:
    - In either a job in the Shortage Occupation List or a job in the same occupation code as the job for which the CoS was assigned
    - no more than 20 hours a week
    - outside the working hours covered by the CoS
  - If a second job does not fall within the definition of supplementary employment then it will be considered secondary employment and you will need to obtain a CoS for the secondary employment and make a new application as a skilled worker.

### ***Settlement after five years as a Tier 2 (General) / Skilled worker***

- You can normally apply for indefinite leave to remain (settlement) once you have completed 5 years continuous residence in one or a combination of the following visa routes:
  - Skilled worker
  - Tier 2 (General)
  - Global Talent
  - Innovator

- T2 Minister of Religion
- T2 Sportsperson / Tier 2 (Sportsperson)
- Representative of an Overseas Business
- Tier 1 (Exceptional Talent)
- Tier 1 (Entrepreneur)
- Tier 1 (Investor)
- Tier 1 (General)

Your most recent grant of leave must be as a Tier 2 (General) migrant or skilled worker.

- You must have been continuously resident in the UK for the 5 year period. Proving continuous residence can be complicated.
- You cannot have been outside the UK for more than 180 days in any 12 month period
- For those in the UK with permission to stay granted before 11 January 2018, you must not have been outside the UK for more than 180 days during any consecutive 12 month period, ending on the same date of the year as your settlement application.
- If you were outside the UK for one of the following reasons, your absences will not be counted towards the 180 day limit:
  - Assisting with a national or international humanitarian or environment crisis (provided your sponsor has agreed to this)
  - Travel disruption due to natural disaster, military conflict or pandemic
  - Compassionate circumstances, for example life threatening illness suffered by you or a close family member.
- Some work-related absences will also be exempt from the 180 day limit, including:
  - research activity undertaken by a skilled worker which was approved by their sponsor and where the applicant was sponsored for a job in one of the following occupation codes:
    - 2111 Chemical scientists
    - 2112 Biological scientists and biochemists
    - 2113 Physical scientists
    - 2114 Social and humanities scientists
    - 2119 Natural and social science professionals not elsewhere classified
    - 2150 Research and development managers
    - 2311 Higher education teaching professionals; or
  - research activity undertaken by a person on the Global Talent route who was endorsed by:
    - The Royal Society; or
    - The British Academy; or
    - The Royal Academy of Engineering;
    - UKRI;
    - or who qualified on the basis of a prestigious prize.
- Your salary must be at least the general salary requirement (£25,600 or £20,480 depending on your position) or the going rate for the occupation code and your sponsor must confirm the salary and that they wish to continue to employ you for the foreseeable future.
- You need to take and pass the Life in the UK test.
- There are suitability requirements.
- Your dependants can apply for indefinite leave to remain too after having been in the UK as PBS dependants/Skilled Worker dependants for 5 years. However, children born in the UK can apply sooner in certain circumstances normally where both parents are being granted settlement (or are already settled or British citizens). There are

suitability requirements and the continuous residence requirement applies for partners. There are English language and Life in the UK test requirements for partners and dependent children aged 18 plus too.

***What impact will being on long term absence due to health reasons have on my ability to apply for settlement? E.g. where I have been on 6 months full pay, 6 months half pay?***

Normally individuals who have been absent from work without pay, or on reduced pay, for more than 4 weeks in any calendar year may have their permission to stay cancelled. There are however some exceptions to this rule which includes those who are on sick leave. Where an applicant is on sick leave, the Home Office will consider the applicant's salary upon their return to work, as confirmed by their sponsor.

***PBS dependants – will switching my visa route affect my family's dependant visa?***

This will depend on the individual circumstances. A partner or child cannot apply to switch into the skilled worker dependant route if they are currently in the UK in any of the following categories:

- visitor
- short-term student
- Parent of a Child Student
- seasonal worker
- domestic worker in a private household
- permission to stay outside the immigration rules, for example on compassionate grounds

If the dependant is in the UK with a PBS dependant visa, they do not need to apply for a new dependant visa if the main applicant switches employer or applies to extend their stay. As long as the person is still a dependant of the same main applicant, the dependant can apply to extend or switch their visas at a later date. This must be before their current visa expires. For example, if you are in the UK as a skilled worker with your partner and you make a change of employment application, your partner does not need to apply for further leave at the same time. They can apply to extend their leave at a later date before their leave expires.

***I have leave to remain in the UK under the Turkish ECAA worker route. What do I need to know for applying for settlement?***

- You must have resided lawfully in the UK for a continuous 5 year period. The the most recent period of leave must have been as an ECAA worker, in any combination of the following categories:
  - an ECAA worker;
  - a Tier 2 (General) Migrant;
  - a Tier 2 (Minister of religion) Migrant;
  - a Tier 2 (Sportsperson) Migrant; or
  - a work permit holder.

- The continuous 5 year period will be met where the applicant has not been absent from the UK for more than 180 days in any 12 month period. As with the skilled worker route, absences for the reasons set out below are not included in the calculation:
  - o assisting with a national crisis; or
  - o assisting with an international humanitarian or environmental crisis overseas; or
  - o as a result of travel restrictions or serious illness, shall not count towards the 180 days, if the applicant provides evidence that this was the reason of the absence(s).
- You need to take and pass the Life in the UK test and meet the English language requirement (minimum level B1 in speaking and listening)
- There is no set salary requirement. Instead, you need to show that you have been able to support your family without recourse to public funds.

***Where you have dual nationality, is there any advantage of relying on a particular nationality under the new skilled worker route?***

Any advantage based on nationality is minimal. Nationals of a majority English speaking country will automatically meet the English language requirement.