

As we previously [reported](#) the Prime Minister's newly formed Immigration Taskforce has commissioned the Migration Advisory Committee to:

- conduct a review of Tier 2 salary thresholds by 21 July 2015 with a view to increasing minimum thresholds across all Tier 2 categories by the Autumn; and
- conduct a wider review of the Tier 2 routes by mid-December 2015.

With both commissions, the Government has set the MAC a very clear mandate: *to review Tier 2 of the Points Based System with a view to making recommendations about significantly reducing economic migration to the UK.*

The MAC's second [consultation](#) concerning a wider review of Tier 2 was launched on Friday 3 July and includes a number of wide-ranging proposals such as:

- restricting Tier 2 (General) recruitment to genuine skills shortages and highly specialist experts only;
- tightening the Tier 2 ICT route along similar lines and including a potential cap on numbers;
- applying the Immigration Health Surcharge (IHS) to the ICT route;
- restricting the ability of Tier 2 dependants to work in the UK; and
- introducing a 'skills levy' to businesses recruiting from outside the EEA, the proceeds from which would be used to fund apprenticeships in the UK.

These proposals, if they come into force, will have profound and damaging consequences for UK businesses' ability to recruit under Tier 2 General and to bring in valuable experienced workers to the UK under Tier 2 ICT. The proposals follow the Government's direct mandate to the MAC to review Tier 2 with a view to *significantly reducing economic migration to the UK* and if left unchallenged will result in drastic changes to Tier 2 (although the Tier 2 (Minister of Religion) and Tier 2 (Sportsperson) categories are not currently subject to review).

Our UK Business Immigration team will be submitting a response to this second consultation. To assist us we again invite the views of as many of our clients as possible, across all business sectors on the following specific proposals:

Tier 2 General – Skills Shortages and High Specialist Experts Only

The Government has asked the MAC to consider plans to restrict Tier 2 General recruitment to **genuine skills shortages** and **highly specialised experts** only. To achieve this aim the MAC has been asked to consider **removing the Resident Labour Market Test (RLMT)** and replacing it with a re-formed Shortage Occupation List which will still maintain flexibility to include 'high value roles', 'key public service workers' and those with 'specialist skills'.

1. What impact will the proposed significant reduction in the level of Tier 2 migration have on your business and on the wider UK economy?
2. In particular, what will be the impact of restricting Tier 2 (General) to genuine skills shortages and highly specialist experts only on your business and the wider UK economy?
3. These proposals will in particular affect the ability of Tier 4 graduates to switch into Tier 2 General. What impact will this have on your business and the wider UK economy?
4. One proposed way of restricting Tier 2 General is to replace the RLMT with an expanded Shortage Occupation List. Do you agree with this approach and what would be its impact on your business and the wider UK economy? In particular:
 - How far in advance can your organisation anticipate a potential skills shortage?
 - What occupations would you expect to see on an expanded Shortage Occupation List?
 - What criteria should be used to determine if a role falls within a '*genuine skills shortage*' or is one for '*highly specialist experts*' only?
 - How long should a role remain on the Shortage Occupation List before it is removed? Do you agree that a mechanism should be put in place to remove a role from the List after a certain period of time?
5. How well does the current RLMT show whether a suitably qualified resident worker could be found to fill a genuine vacancy? How could the RLMT be improved?

6. Currently the points mechanism in place in respect of the limit on Tier 2 General Restricted Certificates of Sponsorship (RCoS) operates to prioritise PhD level roles and defined shortage occupations, with the remaining RCoS being allocated based on level of salary alone.
- Does a system which predominantly judges by salary level alone fairly prioritise those migrants who are of the greatest benefit to the UK?
 - How could the current system be improved? For example, rather than allocating the majority of RCoS on salary level alone, what other criteria could be used, such as particular attributes, economic need and skill level?
7. Alternatively, should the present Tier 2 (General) route **be left intact** and should the Government's mandate to find ways of '**significantly reducing economic migration to the UK**' be met, if this is unavoidable, by increasing salary levels alone? (For more information on this, see the MAC's first call for evidence and our previous [publication](#)). This first consultation is now closed. However, the MAC has indicated that it will still consider responses as part of its current wider review of Tier 2 currently underway.

Tier 2 Intra-Company-Transfer – Action to Drastically Limit Use of This Route Called For

The Government has asked the MAC to consider a number of proposals designed to limit dramatically the use of this route, currently the most used route under Tier 2. Proposals include **limiting this category to genuine skills shortages and high specialised experts only**, imposing a **cap on numbers** and **restricting the the ability of Tier 2 ICT dependants to work in the UK**. The Government has also asked the MAC to consider **tighter restrictions on the IT Sector specifically**.

8. Should this route be limited to genuine skills shortages and highly specialised experts only?
9. If not, what other criteria should be used to determine eligibility for the intra-company transfer route, bearing in mind the Government's ultimate aim of restricting use? These are currently normally 12-plus months' overseas experience, salary level above prescribed minimum thresholds and a skilled role in the UK of NQF Level 6 or above.
10. Should the ICT route be subject to a cap on numbers, for example, with the number of ICT migrants a sponsor can bring into the UK based on a percentage of its UK workforce? What would the effect of such a cap be on your business and on the wider UK economy?
11. Should the Immigration Health Surcharge (IHS) be applied to the ICT route? Please provide reasons for your answer.

12. Should allowances continue to be included in the salary threshold for the ICT route? If allowances were excluded, how would this impact on your business? Would you be prevented from using the ICT route altogether and how might this affect your business and the wider UK economy?
13. What would be the impact on your business and the UK economy if family members of Tier 2 ICT migrants were prevented from having an automatic right to work in the UK? Would this affect the decision of the main applicant to come to work in the UK?
14. Within this latest MAC Consultation, the Government has announced an intention to implement specific restrictions on the IT sector and companies which use the ICT route to facilitate the outsourcing of contracts to third parties. If applicable, how would such restrictions impact on your business and the UK economy?

Skills Levy

The Government has also asked the MAC to consider imposing a skills levy on businesses using Tier 2, which will be used to train UK workers by funding apprenticeships in the UK.

15. Should the levy be applied to all businesses, or should certain exemptions apply?
16. What would the impact of different levels of levy be on your particular business? Would this affect the way you recruit and dissuade you from using Tier 2?

We should be grateful if you could provide your responses to the above questions to annabel.mace@squirepb.com, or let us know about any further concerns on these proposed changes by **Friday 28 August 2015**. All responses will be anonymous and used to inform our response to the MAC's call for evidence on this subject.

Thank you in advance for your participation. If you have any questions in relation to this matter, or any wider questions regarding UK immigration, please contact Annabel Mace, partner and head of the Business Immigration team on 020 7655 1487 or annabel.mace@squirepb.com.

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