

The Migration Advisory Committee (MAC) has today published its final report on “EEA migration in the UK”. In July 2017, Amber Rudd, the then Home Secretary, asked the MAC to report on the current and likely future patterns of EEA migration and the impacts of that migration on the UK’s economy and society.

The MAC was also asked to consider how the immigration system aligned with a modern industrial strategy. The MAC’s intention is to provide an evidence base for the design of a new migration system after the end of the Brexit transition period, from January 2021.

The main points of the report are:

- If the UK decides on its new immigration system in isolation from the negotiations with the EU (though this hardly seems likely), the MAC sees no compelling reasons to offer a different set of rules for EEA compared to non-EEA workers.
- The general principle behind migration policy changes should be to make it easier for higher-skilled workers to migrate to the UK than lower-skilled workers.

The MAC also advises that the existing Tier 2 (General) scheme could “provide a useful template for a work permit scheme” for EEA citizens whilst warning that criticism of the administrative burdens of the scheme should be taken seriously. The remaining key recommendations (largely focused on changes to this scheme) are:

- Abolish the cap on Tier 2 (General) migrants. Currently, there are 20,700 restricted Certificates of Sponsorship (CoS) available each year.
- Consider abolishing the Resident Labour Market Test (RLMT). Currently, unless exempt, this requires sponsors to advertise a role in a prescribed manner for 28 days to demonstrate that no suitable resident worker is available to fill the role. If the RLMT is retained, a larger share of jobs should be exempt, including those with a salary of £50,000 or more (the current salary threshold for exemption is £159,600).
- Tier 2 (General) should be open to all jobs at RQF Level 3 and above (e.g. A levels in England and SCQF in Scotland). The Tier 2 sponsorship minimum skills threshold is currently RQF 6 (i.e. graduate level and above).
- Maintain existing salary thresholds for all migrants in Tier 2.
- Retain but review the Immigration Skills Charge (ISC) and apply it to EEA migrants. The ISC is currently £364 per year of visa granted for small or charitable sponsors and £1,000 per year of visa granted for medium or large sponsors.

- The government does what it can to reduce the bureaucratic burdens of Tier 2 and engages with employers to ensure the system is fit for purpose and runs as smoothly as possible.
- The Shortage Occupation List (SOL) should be fully reviewed.

Outside the recommendations for the Tier 2 visa scheme, the MAC advises:

- Extending the Tier 5 Youth Mobility Scheme to meet any need for low-skilled workers – this currently allows certain nationalities between the ages of 18 and 30 to live and work in the UK in any role for up to two years.
- There should be no sector-specific concessions, save for agricultural seasonal labour.

These recommendations arguably come at a significant cost to UK employers. Proposals to make the current Tier 2 work visa system for non-EEA workers more accessible and user-friendly are long overdue. However, if Tier 2 (or something similar) is extended to EEA workers, UK employers should prepare for a material increase in cost, compliance and administrative burden when recruiting from a sizeable talent pool to which, until now, they have had free and easy access. For those dependent on lower skilled EEA workers with salaries below £30,000, recruitment options will be limited if they are unable to find the staff they need from the UK resident workforce.

The devil will be in the detail of any new system, of course, and we have no way of knowing the extent to which these recommendations will be adopted by the government, particularly if (as we suspect) immigration plays a part in the UK’s negotiations with the EU.

As Professor Alan Manning says in the report, “There is no way to change the migration system without creating winners and losers.”

The government stated in its Chequers white paper earlier this summer that the MAC report will inform its future Framework for Mobility. An immigration white paper is expected to be published towards the end of this year, though it has been delayed several times. We will update clients and contacts in relation to any opportunities to respond to the white paper.

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