

# Brexit – Immigration:

## A Commentary on the Migration Advisory Committee's Report "A Points-Based System and Salary Thresholds for Immigration"

The Migration Advisory Committee (MAC) has published its [recommendations](#) for the UK's future immigration system as it is intended to apply to new applicants from the EU (excluding Ireland) and outside the EU from January 2021. What does this mean in practice and how should employers prepare?

The MAC's key recommendations are:

- **To keep the existing Tier 2 General framework for those with a job offer in the UK.** This is positive news in that it will avoid the need for UK employers to have to get to grips with an entirely new system before January 2021. However, it may mean having to continue to endure the challenges of the current system, including onerous administrative and compliance duties, as well as a very clunky online Sponsor Management System.
- As indicated in the December 2018 immigration White Paper published under Theresa May's government:
  - **Reduce the skills threshold for Tier 2 General visas from RQF 6 (graduate level and above) to RQF 3 (A level).** This will give a wider number of sectors (including retail, hospitality and construction) the ability to sponsor non-British/settled workers in roles not previously considered sufficiently skilled.
  - **Abolish the cap on the number of Tier 2 General visas granted each year (currently set at 20,700).**
  - **Abolish the Resident Labour Market Test (RLMT),** meaning that roles will no longer have to be advertised in a prescribed manner for 28 days to show that no qualified settled worker is available.
- **A salary threshold of at least £25,600 for Tier 2 General visas (reduced from £30,000), with lower thresholds for nurses and various other public sector workers.**
- **For those without a job offer, modification of the existing Tier 1 (Exceptional Talent) route (soon to be replaced by a new Global Talent visa), the skills threshold for which the MAC has said is "far too high, targeted at those at the very top of their field".** The MAC suggests this could be done by:
  - Giving tradeable points for certain characteristics, such as qualifications, age, UK studies, STEM and creative skills
  - Creating a pool of interested applicants scoring a minimum number of points, from which there would be a monthly draw subject to an overall annual cap

This is reminiscent of the previous Tier 1 (General) visa category abolished in 2015 and, if it can be used by highly skilled workers rather than just exceptionally talented ones, would have the benefit of reducing the cost and administrative burden for employers whilst allowing applicants to switch roles or employers more easily.

- **No regional variations for salary thresholds, although the MAC has recommended a separate pilot visa for "remote" areas, which could include lower salary thresholds.**
- **Roles on the shortage occupation list (SOL) should not have lower salary thresholds.** The MAC has also recommended a review as to whether the SOL will be needed at all once the new immigration system is in place (given that the main advantage of being on the SOL at present is an exemption from the RLMT, which it is proposing should be abolished).
- **A complete review of the requirements for applying for indefinite leave to remain for Tier 2 General visa holders, which the MAC considers to be inflexible, as well as an immediate pause on the proposed increases to the settlement salary threshold.** Currently, the threshold is set at £35,800 and is set to increase to £36,200 in April 2020, £36,900 in April 2021 and £37,900 in April 2022. This indicates that the qualifying criteria for indefinite leave to remain (including a minimum of five years' continuous residence in the UK) may be relaxed in the future.

We will now have to wait for the government's response. It is by no means required to accept these recommendations, but if it was hoping that the MAC would provide whole-hearted support and the groundwork for an entirely new Australian-style points-based system (widely floated as one of the benefits of Brexit), it is likely to have been disappointed. An immigration White Paper is expected in March 2020, which should provide more details on whatever new system the government decides to put in place. However, given how little time there is to devise, let alone implement, an entirely new system, the MAC's "stick with what we've got" approach may be the government's only practical option.

In the meantime, employers reliant on a material population of non-British/settled workers should consider:

- Carrying out a review of their hard-to-fill roles based on skill level and salary to determine whether these may qualify for sponsorship under a more accessible Tier 2 system.

- Applying for a Tier 2 sponsor licence if they do not already have one.
- Accounting for the considerable extra cost and administrative burden of having to sponsor new EU hires and non-EU hires from 2021.
- Continuing to support and communicate with their existing EU workforce about the need to apply under the EU Settlement Scheme for pre-settled or settled status (further guidance can be found in our [Brexit FAQs](#)). The deadline for applications is 30 June 2021, but given that we do not know how an already stretched Home Office will cope with demand over the next 18 months, it would be sensible not to put off applying until the last minute.

Our UK Business Immigration team can advise on all your immigration requirements, including Brexit. For further guidance, please contact [Annabel Mace](#), partner and head of UK Business Immigration, or [Supinder Sian](#), partner.

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