

Throughout last year we updated clients and contacts on the MAC's mandate from the Government to review Tier 2 of the UK's Points Based System "with a view to significantly reducing net migration to the UK" and we shared [our response](#) to the MAC call for evidence in October 2015.

The MAC has today published its recommendations relating to Tier 2 which include the following:

- The best way for the Government to achieve its aim of restricting volumes under Tier 2 and focusing on more highly skilled migrants is through price.
- The cost of Tier 2 recruitment should be raised via:
  - a higher overall minimum salary threshold of £30,000 for both Tier 2 General (experienced rate) and Tier 2 ICT Short-Term (up from £20,800 and £24,800 respectively).
  - an Immigration Skills Charge of £1,000 for each sponsored employee for each year of their visa.
- Tier 2 ICT
  - The required amount of prior experience to qualify under Tier 2 ICT should increase from 12 months to two years (except for the graduate trainee route and skills transfer route, where the current requirement of 6 months' experience should be maintained).
  - CoS application forms should include a description as to why the intra-company transferee is required and their specific skills.
  - Use of the Tier 2 (intra-company transfer) route for third-party contracting should be moved into a separate route and a higher salary threshold (£41,500) applied.
  - All intra-company transferees should be required to pay the Immigration Healthcare surcharge.
  - The Home Office and HMRC should work together to ensure that allowances and associated tax and NIC provisions operate in the interests of the UK, given that all intra-company transferees (and their employers) are exempt from NICs in their first year in the UK and those that can retain a non-domiciled status are also exempt from UK income tax.
- Tier 2 General
  - Retain the current Resident Labour Market Test (RLMT) route but introduce improvements in its effectiveness and efficiency to ensure it works as intended.

- Tier 2 (General) should not be restricted only to occupations on an expanded shortage occupation list.
  - All in-country switchers should be subject to the RLMT and included in an expanded annual Tier 2 limit.
  - No automatic sunseting of occupations on the shortage occupation list (SOL). Regular reviews of the SOL should be an effective mechanism for testing whether occupations are still in shortage.
- There should be no restriction on the automatic work rights for dependants.
  - There should be a thorough review of skills shortages within the IT sector, after which the Government may wish to revisit this issue.

These recommendations (if adopted by the Government) will significantly increase the overall cost of sponsoring non-EEA skilled staff. This will be particularly damaging for SMEs in a number of sectors, including engineering, manufacturing and technology. The requirement for two years' prior service employment with a linked employer before qualifying under Tier 2 ICT will also be a major obstacle to the global transfer of valuable intra-company talent.

However, if the Government heeds the MAC's advice, the changes to Tier 2 will not be as dramatic as indicated last summer. Those businesses and organisations that submitted responses to the MAC indicating their strong opposition to the proposals put forward may take some comfort that their concerns have been listened to.

Finally, we would ask you to keep the morning of Tuesday 22 March free for a breakfast seminar to discuss these and other immigration changes shortly before they take effect on 6 April 2016. Further details will follow over the next weeks and we hope you will be able to make it!

If you have any questions relating to the review of Tier 2, please contact Annabel Mace.

## Contact

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