

July 29, 2015
2015-091

flash Alert

A Publication for Global Mobility and Tax Professionals by KPMG's Global Mobility Services Practice

United Kingdom – Certificates of Sponsorship Quota Is Exceeded Again

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Again, the cap on Restricted Certificates of Sponsorship for Tier 2 (General) visas in the U.K. has been reached. Just last month, we reported in this newsletter that the cap had been reached on 11 June 2015, for the first time since its implementation in April 2011.

Additionally, a statement of changes laid before the House of Commons on 13 July 2015, makes a number of changes aimed at reducing net migration and tackling immigration abuse¹. These changes mainly affect migrants who are in the U.K. as Tier 4 students and are intended to take effect in autumn this year.

Why This Matters

Businesses intending to sponsor non-European Economic Area (EEA) nationals to come to work in the U.K. continue to face challenges because the quota on Restricted Certificates of Sponsorship has been reached for a second time. The Gross Annual Salary Package remains an important factor in determining whether a Restricted Certificate of Sponsorship is granted for the role.

International students contribute billions² to the U.K. economy, however the intricacies of the increasingly restrictive immigration rules continue to appeal the appeal of studying in the United Kingdom. The new changes will also restrict the ability of Tier 4 students to stay in the U.K. to study.

Restricted Certificate of Sponsorship Quota

As explained in our previous *Flash Alert* on the subject,³ there is an annual cap of 20,700 new Tier 2 (General) migrants entering the United Kingdom. This is divided into a monthly allocation. The result of this was that in June, Restricted Certificate of Sponsorship requests for roles/positions with an Annual Salary Package of under £46,000 were refused (unless the role/position was on the shortage occupation list or was considered a Ph.D. level role/position). It appears that for July, requests for roles/positions promising at least £32,000 per annum were successful. The Home Office has now released figures⁴ which confirm that the minimum points necessary for applications in July was 45, reflecting this.

KPMG Note

It is still too early to determine the equilibrium level of salary that will be required for Restricted Certificates of Sponsorship to be allocated going forward. Only 97 have been carried over into August from July, whereas 394 were carried over from June to July. August allocations may require a higher salary level, particularly as this coincides with the peak period for graduate recruitment. It will be prudent for businesses to remain aware of the inherent risk of refusal in the interim.

Changes to Immigration Rules Affecting Tier 4 Students

College Students and Working in the U.K.

New Tier 4 students attending publicly-funded colleges will be prevented from being able to work in the United Kingdom. This move is aimed at bringing the working rights of such Tier 4 students in line with those of Tier 4 students at private colleges.

Starting in the autumn, college students holding Tier 4 visas will no longer be permitted to switch to a work visa or to extend their study visa while they are in the United Kingdom. Tier 4 students at embedded colleges⁵ will continue to be entitled to progress onto study at higher education institutions following which they may be eligible to switch into to a relevant work category.

Restricting Academic Progression

University students with Tier 4 visas are only permitted to extend their studies at the same academic level if the course they seek to pursue is linked to their previous course, or the university acknowledges that the course supports the student's genuine career aspirations.

Further Limit to Time Spent in Further Education

The Home Office will limit the time in which Tier 4 students need to complete their further education studies from three years to two years.

Changes to Maintenance Requirement

The maintenance requirement for Tier 4 students will increase, along with the maximum amount paid for accommodation which can be offset against the maintenance requirement, to equalize them with 2015 rates.

Where Tier 4 students are currently entitled to only show evidence of their ability to cover two months' maintenance when they extend their leave within the U.K., this exception will no longer be available.

Studying at Local Authority Institutions

Tier 4 students will no longer be able to study at academies or schools maintained by local authorities. Those seeking to study a foundation course to prepare for entry to higher education are also precluded from being able to do so if they are in the U.K. as a Tier 4 (Child) migrant.

KPMG Note

The narrower definition of academic progression limits the freedom of choice for Tier 4 students to pursue other courses of study while in the U.K., and brings to the forefront the increasing scrutiny by the Home Office of the how Tier 4 Sponsors, including Higher Education Institutions, determine the academic progression of their Tier 4 students. This may be a particular point of interest in an immigration audit by the Home Office.

Footnotes:

- 1 U.K. Visas and Immigration, "[Policy Paper: Statement of changes to the Immigration Rules: HC297, 13 July 2015](#)" (updated 24 July 2015).
- 2 [International Education: Global Growth and Prosperity](#), HM Government, July 2013.
- 3 For our previous report in *GMS Flash Alert* 2015-076 (16 June 2015), click [here](#).
- 4 U.K. Visas and Immigration, "[Allocations of restricted certificates of sponsorship](#)," (updated 14 July 2015).
- 5 Embedded colleges are private education providers that deliver pathway courses to prepare students for entry to higher education program, or deliver integrated higher education program which students complete at Higher Education Institutions ("HEI"). The embedded colleges are usually part of a network and operate within or near the premises of a Higher Education Institution. They may also be set up as a joint venture with an HEI to deliver pathway courses that prepare students for entry to higher education program at that HEI. [*Tier 4 of the Points Based System: Guidance for Sponsors*, Home Office, Version 04/2015]

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