

GMS Flash Alert

2016-127 | November 4, 2016



United Kingdom – Government Communicates Changes to Immigration Rules

On 3 November 2016, the U.K. government put forth a Statement of Changes to the Immigration Rules before the House of Commons.¹ This will implement the first wave of changes recommended to the U.K. government by the Migration Advisory Committee (“MAC”) earlier this year in relation to Tier 2 sponsored migrants – for example minimum salary thresholds and English-language skills.² The majority of these changes will come into effect on 24 November 2016, and will apply to applications made on or after that date. The next wave is expected to be implemented in April 2017.³

In addition, the period from 21 November 2016 to 1 December 2016, will see further provisions of the Immigration Act 2016 enacted, which are aimed at strengthening the U.K. Secretary of State’s powers to control immigration and combat illegal migration.

WHY THIS MATTERS

The changes to the U.K. Immigration Rules are likely to impact planning and decision-making within the private and public sectors (for example, by HR and Global Mobility, Talent Recruitment, Resourcing, etc.).

The increases to minimum salary thresholds for Tier 2 visa categories will have cost and resourcing implications for employers that rely on recruitment of non-European Economic Area (EEA) nationals to support their U.K. operations. Small- to medium-sized businesses may struggle with the higher staffing costs, while larger organisations may be challenged by the volume of sponsored workers requiring higher salaries going forward.

Other changes, such as new English-language requirements for public sector workers and the need to test the resident labour market before being able to sponsor nurses, will also increase the time it takes to recruit these workers in the United Kingdom.

The Immigration Act 2016 will bring further enforcement powers into effect, underscoring the fact that the prevention of illegal working and exploitation of migrants remains at the forefront of the U.K. government’s plans. Therefore, businesses ought to make sure that their immigration-related compliance processes are adapted effectively to the ongoing developments in the laws.

Changes to Immigration Rules

Tier 2 (General)

- The minimum salary threshold for Tier 2 (General) experienced hires will increase from £20,800 to £25,000 for Certificates of Sponsorship assigned from 24 November 2016 onwards. The minimum threshold of £20,800 will be maintained for young people and recent graduates subject to the “new entrant” rules and those currently applying to extend a stay in the Tier 2 (General) category that began before 24 November 2016. The minimum salary threshold will increase to £30,000 in April 2017, and there will be no transitional arrangements for those who applied for a Tier 2 (General) visa after 24 November 2016. This means people meeting the £25,000 minimum salary requirement will need to meet the £30,000 minimum salary requirement on extension.
- Nurses, medical radiographers, paramedics, and some secondary school teachers will be exempt from this new £25,000 minimum salary requirement until July 2019.
- Nurses will remain on the Shortage Occupation List, but employers will need to carry out a Resident Labour Market Test (RLMT) before recruiting any non-EEA nurses.
- The government will give extra weighting within the Tier 2 (General) monthly limit to businesses sponsoring U.K. graduates who returned from overseas.
- Graduate trainees will be permitted to switch roles within their training programme or at the end of the programme without the need for the Resident Labour Market Test or a new application for Tier 2 sponsorship, even if their original occupation type under the government categorisation changes.

Tier 2 (Intra-Company Transfer)

- The Tier 2 (ICT- Skills Transfer) category will close to new applications.
- The minimum salary threshold for the Tier 2 (ICT - Short Term Staff) category will increase from £24,800 to £30,000. There will be transitional arrangements for those already in the U.K. in this category.
- The minimum salary threshold for the Tier 2 (ICT – Graduate Trainee) category will decline from £24,800 to £23,000, and the number of places available to sponsors will increase from five to 20 per year.
- The starting date on which all Tier 2 (ICT) migrants and their dependants will be required to pay the Immigration Health Surcharge at £200 per person per year of the visa will be announced in due course.

Changes in Other Categories

- U.K. flight schools will now be able to deliver courses leading to approved qualifications, thereby allowing them to sponsor international students under Tier 4 (General).
- From April 2017, organisations relying on university milkround advertising to recruit graduates will have to offer a job to the graduate within six months of that advertising having taken place.
- From 1 May 2017, those applying to remain in the U.K. as a partner or parent of a British national will need to satisfy basic English-language requirements.

KPMG NOTE

Although these changes follow the plan announced earlier this year, it could take U.K. businesses some time to digest the changes, and to consider what they will mean for the way they run their U.K. operations, particularly with the additional uncertainty over recruitment within the U.K. due to the U.K. preparing to leave the European Union.

It is likely that some of the changes will have a serious effect on some business models. The offering of international assignments to the U.K. to attract highly skilled employees may become too expensive, as may be the sending of highly skilled migrants to the U.K. for short-term project work.

The fact that the U.K. government is still looking into which allowances will be permitted to meet minimum salary thresholds for Tier 2 (ICT) migrants is likely to be a further concern for U.K. employers.

Immigration Act 2016

Effective 21 November 2016

- Employees of public authorities engaged in customer-facing roles must be able to speak English to a required standard.

Effective 25 November 2016

- Provisions aimed at dealing with breaches of labour market legislation will come into force as part of the government's objective of preventing the exploitation of vulnerable workers and tackling businesses suspected of undercutting the local labour market. A draft Code of Practice has been issued which sets out how the government will exercise these powers of labour market enforcement.

Effective 1 December 2016

- It will be a criminal offence to rent residential premises to adults who do not have the right to be in the U.K. due to their immigration status. There are powers to terminate residential tenancy agreements and evict tenants who do not have the right to rent.
- The Secretary of State will have the following powers:
 - Issue illegal working closure notices and compliance orders to businesses found to be employing illegal workers. Provisions for the issuance of multiple entry search warrants (excluding Scotland) will come into effect.
 - Cancel a person's leave if the person breached a condition(s) of his or her immigration permission, or used deception to seek leave to remain in the United Kingdom. This could affect casual workers, such as students found to be working in excess of their permitted hours of work.
 - Certify that a person with a pending human rights appeal may be removed from or denied entry into the U.K. while the consideration of their immigration appeal is pending. This may affect unsuccessful applicants under family visa rules or applicants for indefinite leave to remain seeking to appeal the decision.
- The licensing of private hire vehicles will be subject to the applicant having the right to work.

KPMG NOTE

The changes to enforcement and penalties are the latest expansion of policies which appear aimed at making life harder for illegal migrants and employers of illegal workers.

Such policies result in augmenting the efforts required to achieve compliance for law-abiding employers and staff. Businesses should be aware that this remains high on the political agenda and they must foster the formulation and implementation of effective policies and procedures to avoid inadvertent non-compliance.

FOOTNOTES:

- 1 See "[Policy Paper: Statement of Changes to the Immigration Rules: HC877, 11 March 2016](#)".
- 2 See the 24 March 2016 news release "[Migration Advisory Committee Reviews of Tier 2.](#)"
- 3 For prior coverage, see GMS [Flash Alert 2016-046](#), 30 March 2016.

* * * *

Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in the United Kingdom.

The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment and compliance strategies.

Punam Birly

Tel. + 44 (0) 20 7694 4950
Punam.Birly@kpmg.co.uk

Paul Jones

Tel. + 44 (0) 20 7311 1475
Paul.Jones2@kpmg.co.uk

Denise Osterwald

Tel. +44 (0) 20 7694 3481
Denise.Osterwald@kpmg.co.uk

** Please note the KPMG International member firm in the United States does not provide immigration services.*

The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom.

© 2016 KPMG LLP, a U.K. limited liability partnership, is a subsidiary of KPMG Europe LLP and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved.

www.kpmg.com

kpmg.com/socialmedia



The KPMG name and logo are registered trademarks or trademarks of KPMG International.

The KPMG logo and name are trademarks of KPMG International. KPMG International is a Swiss cooperative that serves as a coordinating entity for a network of independent member firms. KPMG International provides no audit or other client services. Such services are provided solely by member firms in their respective geographic areas. KPMG International and its member firms are legally distinct and separate entities. They are not and nothing contained herein shall be construed to place these entities in the relationship of parents, subsidiaries, agents, partners, or joint venturers. No member firm has any authority (actual, apparent, implied or otherwise) to obligate or bind KPMG International or any member firm in any manner whatsoever. The information contained in herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

Flash Alert is a GMS publication of KPMG LLP's Washington National Tax practice. To view this publication or recent prior issues online, please click [here](#). To learn more about our GMS practice, please visit us on the Internet: click [here](#) or go to <http://www.kpmg.com>.

© 2016 KPMG LLP, a Delaware limited liability partnership and the U.S. member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative ("KPMG International"), a Swiss entity. All rights reserved. Printed in the U.S.A. NDPPS 530159