

GMS Flash Alert

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United Kingdom - Changes to Immigration Rules Happening on 6 April 2017

Significant changes to the U.K. Immigration Rules for Tier 2 employer-sponsored migrants are expected on 6 April 2017¹.

One of these is the introduction of an Immigration Skills Charge ("ISC") payable by sponsors for each sponsored migrant. Additional information has recently been published on how this will work.²

The U.K. government has also clarified a recently introduced restriction on a sponsor's ability to amend an employee's start date in the U.K. on the Certificate of Sponsorship ("CoS") beyond four weeks.³

WHY THIS MATTERS

The April changes to the U.K. Immigration Rules will significantly increase immigration costs, and are therefore likely to impact short- and long-term planning and budgeting within the private and public sectors. Some employers will find that their current approach to recruiting non-European Economic Area (EEA) employees or relying on overseas assignees to bring specific skills to their U.K. operations short-term may need to be updated or completely overhauled.

Immigration Skills Charge ("ISC")

April 2017 will see the introduction of the ISC which will be levied on Tier 2 sponsors at a rate of £1,000 per sponsored migrant per year. A reduced rate of £364 per sponsored migrant per year will apply to small and charitable sponsors.

The U.K. government has confirmed that the ISC will be payable up-front for the total period of the CoS. It is not yet clear how this payment will be made: whether through the Sponsorship Management System where CoS are paid for, or as part of the visa application process, or through a separate portal.

However, the ISC will apply to all new Tier 2 CoS *except* the following:

- Non-EEA nationals who were sponsored in the Tier 2 category before 6 April 2017, and are applying from within the U.K. to extend their stay;
- Tier 2 (ICT - Graduate Trainee) applicants;
- Workers who undertake a specified PhD-level occupation;
- Tier 4 student visa holders in the U.K. switching to a Tier 2 (General) visa;
- Family members (i.e., dependants) of the sponsored migrant.

Certificate of Sponsorship Start Date

The U.K. government recently sought to restrict the length of time a Tier 2 sponsored migrant's start date can be delayed from the date originally declared on the CoS to a maximum of four weeks.

KPMG NOTE

As it was possible to interpret the new rule in different ways, the government has now released further guidance to eliminate any ambiguity.

The start date stated on a CoS must be the date that a migrant will start working for a sponsor in the United Kingdom. Under the Immigration Rules, a migrant can be granted entry clearance no more than 14 days before the start date given on the CoS.

It is now clear that once the entry clearance visa has been granted, it is possible to delay the original start date but, in the case of a Tier 2 (General) migrant, any revised start date cannot be more than four weeks after the original start date stated on the CoS.

In the case of a Tier 2 (ICT) migrant, it is possible for the start date to be put back more than four weeks as long as the migrant continues to be paid by the sending overseas entity.

Reminders on Further Changes to Immigration Rules from 6 April 2017

Tier 2 (General)

Increase in Minimum Salary Threshold – The minimum salary threshold will increase to £30,000 for Tier 2 (General) experienced hires. The minimum threshold of £20,800 will be maintained for new entrants.

Instances Where Resident Labour Market Test ("RLMT") Requirement To Be Waived – The RLMT requirement will be waived where an application is made in support of the relocation of a high-value business to the U.K., or, potentially, in support of an inward investment and extra weighing will be given within the Tier 2 (General) monthly limit of available CoS for this category. No further information is currently available regarding the form the extra weighing will take.

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Tier 2 (ICT)

- *Closing New Applications* – The Tier 2 (ICT- Short Term Staff) category will close to new applications.
 - *Applying under a Single Route and Minimum Salary Threshold* – All Tier 2 (ICT) applicants (except graduate trainees) will need to apply under a single route, as opposed to being able to choose one of three ICT routes until recently, with a minimum salary threshold of £41,500.
 - *Lower Minimum Salary Threshold for High-Earners in Tier 2 (ICT Long Term Staff)* – The minimum salary threshold for high earners in the Tier 2 (ICT – Long Term Staff) category will decline from £155,300 to £120,000 for those migrants looking to stay in the U.K. for between five and nine years.
 - *Waiver of “One Year Experience” Requirement* – The one-year experience requirement for Tier 2 (ICT) migrants will be waived if the migrant is paid over £73,900.
 - *Immigration Health Surcharge for Tier 2 (ICT) and Dependants* – Possible extension of the Immigration Health Surcharge (“IHS”) to Tier 2 (ICT) visa applicants and their dependants.
 - *Possible Other Changes* – Possible implementation of further changes resulting from the U.K. government’s review of permitted allowances under the Tier 2 (ICT) visa route. No further details are available at this time.
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KPMG NOTE

The clarity provided on the ISC is welcome but there is still ambiguity over how it is going to be paid. This is going to be of concern to large sponsors (and their legal representatives) that may need to plan for a sudden increase in online payments. It is also unclear whether the ISC will apply to Tier 2 extension applications of Croatian nationals; but it would be surprising if they had to pay.

FOOTNOTES:

- 1 For prior coverage, see GMS [Flash Alert 2016-046](#), 30 March 2016.
- 2 For additional information and guidance from the Home Office, click [here](#).
- 3 Ibid.

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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

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

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