

# GMS Flash Alert

2017-062 | April 6, 2017



## United Kingdom - 6 April Means Important Changes to Immigration Rules

As reported in GMS [Flash Alert 2017-030](#), today, on 6 April 2017, significant changes to the U.K. Immigration Rules for Tier 2 employer-sponsored migrants are coming into force.

Among the changes are the introduction of an Immigration Skills Charge ("ISC") payable by sponsors for each sponsored migrant, the imposition of the Immigration Health Surcharge to Tier 2 (ICT) migrants and their dependents, increases in application fees, and new minimum salary thresholds.

We highlight several of the important changes in this GMS *Flash Alert*.

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### WHY THIS MATTERS

The changes to the U.K. Immigration Rules affect all Tier 2 applications. The changes will significantly increase costs to U.K. employers when sponsoring non-European Economic Area (EEA) nationals to work in the U.K. as a result of increases in minimum salary thresholds and the introduction of additional and increased charges. The changes will impact short- and long-term planning and decision-making within the private and public sectors and have cost and resourcing implications for employers who rely on non-EEA nationals to support U.K. operations.

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### Immigration Skills Charge

The new Immigration Skills Charge ("ISC") is 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 applies to small and charitable sponsors. The ISC applies to both Tier 2 (General) and Tier 2 (Intra-company transfer – ICT) visa applications. Applications may be refused if the required ISC is not paid in full.

The ISC is payable up-front at the time a sponsor issues a Certificate of Sponsorship (COS) and applies to all Tier 2 applications 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.

## Immigration Health Surcharge

The Immigration Health Surcharge ("IHS") was introduced in 2015 and was required to be paid by non-EEA nationals (including Tier 2 (General) applicants) coming to the U.K. for more than six months.<sup>1</sup> Tier 2 ICT applications were previously exempt.

From 6 April 2017, Tier 2 (ICT) migrants and their dependants will also be required to pay the IHS of £200 per person per year of their visa or leave to remain at the time of application.

Those coming to the U.K. for six months or less will continue to be exempt from the requirement to pay the IHS.

## Overseas Criminal Record Certificates

Tier 2 (General) migrants intending to work in the education, health, and social care sectors are now required to provide a criminal record certificate. Adult dependants of the Tier 2 (General) migrants working in those sectors and applying from overseas, on or after 6 April 2017, are also subject to this requirement.<sup>2</sup>

Criminal record certificates have to be produced for all countries in which the applicant has resided for 12 months or more, consecutively or cumulatively, in the 10 years preceding their application, while the applicant has been aged 18 years or over.

Applicants to work in these sectors under other visa types, such as Tier 2 (Intra-company transfer), are not affected.

## Changes in Minimum Salary Requirements

Due to annual updates to the minimum salary rates stated in the Standard Occupational Classification (SOC) Codes of Practice for Skilled Workers the majority of occupations see an increase in the minimum salary that must be paid to a Tier 2 worker.<sup>3</sup> However, some occupations see a small decrease.

## Other Tier 2 (ICT) Changes

- The Tier 2 (ICT- Short Term Staff) category has closed to new applications. All Tier 2 (ICT) applicants (except graduate trainees) will need to apply under a single route with a minimum salary threshold of £41,500.<sup>4</sup>

- Due to the closure of the Tier 2 (ICT – Short Term Staff) category, the accommodation allowance in the Tier 2 (ICT) category can only form a maximum of 30 percent of the total salary package unless using the Tier 2 (ICT – Graduate Trainee) category, where the maximum remains 40 percent.
- The salary threshold for high earners who are able to extend their total stay in the U.K. for up to nine years is reduced from £155,300 to £120,000.
- The requirement to have at least one year's prior experience at an overseas entity linked to the sponsor is waived if the migrant is paid £73,900 or more.
- Greater clarity is provided on the types of allowances which can be taken into account when calculating minimum salary requirements.

## Other Tier 2 (General) Changes

- The minimum salary threshold increases to £30,000 for Tier 2 (General) experienced hires.<sup>5</sup> The minimum threshold of £20,800 is maintained for new entrants and some jobs in the health and education sectors are exempt until July 2019.
- The minimum salary requirement for high earners, whose visas may be sponsored without conducting the Resident Labour Market Test (RLMT) and are not subject to the monthly quota, increases from the current £155,300 to £159,660.
- The RLMT requirement is waived for posts which support the relocation of a high-value business to the U.K. or a significant new inward investment project. The sponsor needs to have been registered as a branch or subsidiary of an overseas business within the last three years and either invest at least £27 million or create at least 21 new U.K. jobs.

## Application Fees

Fees for most immigration applications are going up. Of particular relevance to businesses are small increases in the application fees in all Tier 2 categories, larger increases for priority processing services inside and outside the U.K., and an increase from £1,875 to £2,297 in the application fee for indefinite leave to remain. A full list of the new fees is available at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/606076/Visa\\_Fees\\_table\\_Apr2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/606076/Visa_Fees_table_Apr2017.pdf).

## Dependants

The requirement that dependants of a 'Tier 2 migrant visa' must not spend more than 180 days per year outside the U.K. to qualify for indefinite leave to remain is removed, having been added in 2016 with retrospective effect.<sup>6</sup>

## Other Changes

There are various changes to other immigration categories which have limited relevance to U.K. employers. However, one that employers should watch out for is the definition of "a week" for the purposes of calculating the maximum time allowable for employing a Tier 4 student. A week is now defined as Monday to Sunday.

## FOOTNOTES:

- 1 For related coverage, see GMS [Flash Alert 2016-025](#) (15 February 2016).
- 2 For prior coverage, see GMS [Flash Alert 2017-004](#) (10 January 2017).
- 3 For prior coverage, see GMS [Flash Alert 2016-127](#) (8 November 2016).
- 4 For prior coverage, see GMS [Flash Alert 2016-046](#) (30 March 2016).
- 5 Ibid.
- 6 See: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/591101/Tier\\_25\\_guidance\\_10-02-2017.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/591101/Tier_25_guidance_10-02-2017.pdf) .

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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.

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

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