



GMS Flash Alert

Immigration Edition

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United Kingdom - Committee Recommends Points-Based System, Salary Thresholds for Immigration

With the withdrawal of the U.K. from the European Union (EU) on 31 January 2020, dialogue over the design of the U.K.'s future immigration system from January 2021 has returned to the forefront.

In June 2019, the Migration Advisory Commission (MAC) was commissioned by the then Home Secretary to report on the U.K.'s salary thresholds in the future immigration system.¹ This commission was extended by the current Home Secretary in September 2019 to include a report on how the U.K. labour market can be strengthened through the introduction of an Australian-style points-based ("PBS").

The MAC published its findings on 28 January 2020.² Key recommendations made by MAC are as follows:

- Maintain most of the current system for applicants with a job offer (known as Tier 2 General);
- Introduce a points-based system for those without a job offer;
- Reduce the salary threshold for the Tier 2 (General) visa category;
- Open the Tier 2 (General) visa category to medium-skill jobs.

WHY THIS MATTERS

The U.K. government is under no obligation to implement these recommendations, but the MAC reports generally have a substantial impact in determining the government's policy. If accepted and implemented by the government, these changes will apply to both European Economic Area (EEA) (at the end of the Brexit transition period) and non-EEA nationals.

WHY THIS MATTERS continued

Employers might be glad to see the MAC recommending the removal of a cap on the number of Tier 2 (General) workers and the widely-viewed-inefficient Resident Labour Market Test process. These two aspects, in particular, have the potential to speed up the Tier 2 (General) process, which can currently take several months.

The salary threshold recommendations show the MAC believes that retaining appropriate thresholds is beneficial to the general labour market. It recommends more flexibility, with wholly different thresholds for occupations in education and health.

If implemented, we expect that for occupations outside of education and health, there will be little to no material change, due to the potential exclusion of allowances as part of the total salary package.

The potential introduction of a points based visa (with tradeable points) for those without a job offer could widen the pool of suitable candidates for employers who may have concerns about a shrinking labour market.

Summary of MAC Recommendations

Skilled worker with a job offer: The employer-sponsored Tier 2 (General) is considered effective and should remain a part of the U.K.'s future immigration system. The immigration category is currently only open to highly-skilled workers ("highly skilled" refers to roles which are considered at or above degree level). The MAC has recommended a removal of the cap *and* Resident Labour Market Test, along with an introduction of a simplified process. Importantly, the MAC recommends that medium-skills occupations, known as RQF3+ occupations, become eligible for Tier 2 (General) sponsorship.

Skilled worker without a job offer: In place of the ineffective Tier 1 (Exceptional Talent) visa, the MAC has recommended a new immigration category that focuses on workers with "high potential" rather than "exceptional talent." This scheme would utilise a system for prospective applicants to register their interest in coming to work and monthly invitations to apply will be sent from the pool of interested applicants. The selection process will be based on a tradeable points-based system with different attributes, for example, language skills, age, qualifications, having studied in the U.K., with priority areas such as creative skills and STEM. The specific attributes are for the government to determine through investigation, and on-going monitoring of those characteristics the government wishes to attract and that are predictive of success.

The MAC recommends this immigration category to be subject to a limit on the number of visas issued.

It should be noted that the U.K. government announced on 27 January 2020, its intention to replace the Tier 1 (Exceptional Talent) visa with the Global Talent visa, a fast-track visa scheme to attract the world's top scientists, researchers, and mathematicians. The Global Talent visa will come into effect on 20 February 2020, and will not be subject to any limits.

KPMG LLP (U.K.) NOTE

As the Global Talent visa is intended to benefit specific sectors, there remains scope for the government to accept the MAC recommendation and implement this immigration category to support other sectors that would benefit from employing skilled workers without first having to apply for a Tier 2 Sponsor Licence.

Settlement in the U.K.: There should be an immediate pause to the proposed annual increases of income threshold under which holders of Tier 2 visas can become eligible for Indefinite Leave to Remain in the United Kingdom. Roles that have been on the Shortage Occupation List (SOL) in the last six years should continue to be exempt from the salary threshold for settlement. There should also be a review of the current settlement criteria so further recommendations for change can be made.

Formulation of salary thresholds: There should be occupation-specific and general salary thresholds, based on the relevant figures reported by the Annual Survey of Hours and Earnings (ASHE) and updated annually. The higher amount should continue to be taken into account. The general threshold should be set at the 25th percentile of the full-time, annual earnings distribution for the relevant occupation. Currently, this means a threshold of around £25,600, rather than £30,000.

The MAC recommends the application of national pay scales as the salary threshold for 24 occupations in health and education instead of both the occupation-specific and general thresholds, which are currently used in the immigration system for Tier 2 (General). The MAC recommends some changes to RQF3+ occupations in preparation for a system where medium-skilled work will be eligible for sponsorship, by adding some job roles and removing others.

Pro-rated pay: The MAC does not recommend pro-rating salary thresholds for part-time work. The individual's salary from his main job should determine whether the threshold is met. It was recognised that there should be more options for visa holders to move to part-time work when they become parents.

KPMG LLP (U.K.) NOTE

Interestingly, the MAC recommends that salaries should not be pro-rated for part-time workers, while noting that part-time work opportunities should be increased for parents. This could be seen as quite a narrow view that does not take into account the many reasons why many workers opt for part-time roles.

Shortage occupations: To avoid perpetuating shortage, the MAC believes roles that fall within the SOL should not be subject to lower salary thresholds. The necessity for the SOL will only be determined after the new immigration system comes into effect when sufficient time has elapsed to allow the MAC to determine the benefits to the labour market of having this list.

Salary thresholds – allowances: The MAC recommends excluding allowances, equity, and employer pension contributions from forming part of the salary threshold.

Regional variations: The MAC does not recommend the introduction of a geographical variation in the minimum salary thresholds. Instead, the government should pilot a targeting category of work permission that allows it to address the problems faced by specific parts of the United Kingdom.

The MAC recognises the unique position of Northern Ireland whose labour market is more distinct, and that it may have a different relationship with the EU post-Brexit. It commented that special consideration could be given to Northern Ireland.

“New entrant” category under Tier 2 General and salary threshold: The MAC recommends adopting a wider definition of “new entrant” to include those who are working towards a recognised professional qualification and those who are moving directly into post-doctoral positions. The new-entrant rate should apply for five years rather than three

years. Any time spent on the new post-study work route should count towards the five years of new entrant threshold eligibility.

The MAC recommends a simplified formula to work out the salary threshold for new entrants. It recommends 30 percent reduction of the experienced rate to around £17,920. The new-entrant rate should be calculated at 70 percent of the experienced-worker rates for both the general salary threshold and the occupation-specific salary thresholds that apply to the relevant occupation.

KPMG LLP (U.K.) NOTE

The recommendations include some quite useful concessions such as retaining a Tier 2 General category for skilled workers with job offers in the U.K., opening this up to medium-skilled roles, abolishing Resident Labour Market Tests, expanding the use and definition of new entrants, and refreshing salary thresholds. Nevertheless, removing the use of allowances to meet salary thresholds and limiting part-time work could have a negative impact on employers and potential applicants. There are many reasons why an individual may seek part-time work, outside of parental responsibility.

We welcome the potential introduction of self-sponsored visas for individuals who do not have a job offer, where points can be traded.

If implemented (and there is a big “if” as the government is by no means bound to implement recommendations made by the MAC), the recommendations unveil a more reactive immigration system that is supportive of a high-wage and high-skilled U.K. economy, while recognising the need to support sectors that are reliant on medium- and lower-skilled work in a post-Brexit Britain. Highlighting the need to apply national pay-scale rates to some public-sector occupations, as well as recommended targeted pilots for specific regional economic needs are also welcome changes.

The MAC recognises the paucity of data and the limit this poses in identifying the effectiveness of a migration policy. Once a new system is implemented, no earlier than 2021, feedback from employers would provide significant benefits in terms of fine-tuning the system.

FOOTNOTES:

1 For the MAC salary threshold commission letter issued by the Home Secretary to the MAC, click [here](#).

For prior coverage of the MAC, see the following issues of GMS *Flash Alert*: [2019-163](#) (25 October 2019) and [2018-123](#) (18 September 2018).

2 See the MAC report: “[Points-Based System and Salary Thresholds for Immigration](#).”

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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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