

Immigration Brief

April 2010

Legal Update

This update focuses primarily on some of the significant changes that came into force on 6 April 2010. Please note that the UK Border Agency's (UKBA) guidance notes and application forms have been revised to reflect these changes.

Changes to Tier 1 (highly skilled workers)

- Applicants with a Bachelor's degree can apply provided they meet the other requirements.
- Those applicants with no formal qualifications are eligible provided their previous earnings are high enough (£150,000).
- The minimum threshold for previous earnings is now £25,000.
- Applicants under 40 can score points for their age.
- Successful applicants will be granted initial leave for two years and extensions for three years.
- Migrants will not be able to work as a professional sportsman under this tier. This will prevent applicants avoiding the Governing Body Endorsement requirements in place for those under Tier 2 and Tier 5.
- The restriction on employment relating to working as a doctor in training has extended to dentists in training. This restriction will not apply to someone who has a degree in medicine or dentistry from a recognised UK institution.

Changes to Tier 2 (skilled workers with a job offer)

Changes have only been made to Tier 2 (General) and Tier 2 (Intra-Company Transfer) and not in relation to Tier 2 (Ministers of Religion) or Tier 2 (Sportsman).

- Applicants (not including those whose jobs are in shortage occupation) will only score points for prospective earnings if they earn at least £20,000.
- The UKBA has clarified its policy on when a new Tier 2 application will be needed due to changes of employment. The guidance has provided clarity for cases where a migrant's job is changing but they are continuing to be employed by the same entity.
- A change of employment application will be required

where a migrant changes job with the SOC Code from a job which is on the shortage occupation list to a job which is not on the shortage occupation list.

- Intra-Company Transfers (ICT) are now split into three new sub-categories:

Established Staff

This is the same as the previous ICT category apart from the fact that this category does not lead to settlement and the period of prior employment with the company overseas has increased to 12 months.

Graduate Trainee

This sub-category allows multinational companies to transfer recent graduate recruits to the UK branch for training.

The recruits must be sent to the UK as part of a structured graduate training programme, with clearly defined progression towards a managerial or specialist role. They should not be coming to the UK to fill a long term post or displace a resident worker.

The individuals must have been employed by the company overseas for at least three months. The maximum length of stay that will be granted is 12 months.

Skills Transfer

This sub category is intended to enable new overseas recruits to transfer temporarily to the UK by a multinational company to acquire or impart skills or knowledge relevant to their role. The applicants will not need previous experience with the company before coming to the UK.

The main principle is that the skills transfer should be incidental to the applicant's employment overseas. The role must be additional to the company's UK staffing needs and cannot be used to fill vacancies or displace resident workers. The maximum length of stay that is granted under this sub-category is six months.

Changes to Tier 4

A new category of sponsors has been introduced called "highly trusted sponsors". This category is in addition to the current "A" and "B" rated sponsors.

This category is awarded to those Tier 4 sponsors who

have complied with their sponsorship duties to the highest degree and whose students have complied fully with the terms of their stay. There are various benefits of this category including being able to offer a wider range of courses, such as courses at National Qualifications Framework level 3 and equivalent; and courses below degree level that encompass a work placement.

Changes to Tier 5 (Youth Mobility Scheme)

Nationals from Monaco can apply under this route.

New Immigration Fees – 2010/11

Please visit the UKBA's website:

<http://www.ukba.homeoffice.gov.uk/>

for new fees which came into effect on 6 April 2010.

Did you know that...

- On 3 March, stricter measures were introduced for overseas students (Tier 4) partly due to a surge of suspected bogus applications. Please see our article on suspected bogus colleges for further details at <http://www.birketts.co.uk/documents/articles/CP.pdf>.
- On 22 February, the UKBA introduced a number of changes to the Sponsor Management System which affect Tier 2 and Tier 5 sponsors, including: (a) creating, assigning and paying for Certificates of Sponsorship (CoS) in batches; (b) a facility whereby a sponsor can inform the UKBA of minor changes to a CoS before an overseas migrant uses it in their application for entry clearance or leave to remain in the UK; (c) a feature to enable sponsors to create a new CoS for an individual or group or batch based on the previous CoS without the need to input all of the details.
- On 22 February, visa letters for Tier 4 Students were replaced by a Confirmation of Acceptance for Studies. Please see our Immigration Briefing Note - Final Phase of Tier 4 (http://www.birketts.co.uk/news-and-seminars/view_news.aspx?ID=461) for further details.
- On 15 February, the Asylum and Immigration Tribunal was replaced by the First and Upper Tier Tribunal Immigration and Asylum Chambers.

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