

Legal update:

Have you factored Tier 2 changes into your overseas hiring?

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With significant changes to the Tier 2 route expected to come into force in October 2016 and April 2017, employers that rely on overseas workers should take steps to ensure they will continue to be able to meet their staffing needs.

On 24 March this year, the government announced the actions it will be taking in response to the Migration Advisory Committee's comprehensive report of the Tier 2 visa route and many of these changes will make hiring a Tier 2 worker substantially more expensive.

From October 2016, new experienced workers sponsored under Tier 2 (General) will need to receive a salary of at least £25,000 and currently the minimum salary is £20,800. This will also apply to current workers looking to extend their leave. As of April 2017, the minimum salary threshold will increase to £30,000.

From April 2017, employers will also be required to pay an Immigration Skills Charge (ISC) of £1000 for each year of employment initially stated on a new workers CoS. This charge will be reduced to £364 for small and charitable sponsors and for those switching from a Tier 4 visa.

Those applying under the Tier 2 (ICT) category will not avoid the ISC and will also be required to pay the Immigration Healthcare Surcharge which has so far not been a requirement under Tier 2 (ICT). The closure of the Skills Transfer sub-category in Autumn 2016 and the Short-Term Staff sub-category in April 2017 will result in a new standard ICT category with a minimum overall salary threshold of £41,500.

The changes are however more positive if an employer is looking to hire recent graduates, with the continued exemption from the Resident Labour Market Test for applicants switching from Tier 4 to Tier 2. The minimum salary threshold for this group will also remain at £20,800.

In addition, overseas graduates applying for a Tier 2 (General) visa will be given extra weighting when applying for a Restricted Certificate of Sponsorship meaning that although generally paid less than experienced workers, they would not be the first in line to be refused if the annual limit is reached.

Other significant changes due in April 2017 include the following:

- The "high-earner" minimum salary for Tier 2 (ICT) will decrease from £155,300 to £120,000.
- The current requirement that employees coming under Tier 2 (ICT) must have at least 12 months' experience with the overseas employer is being removed for workers paid over £73,900.
- Extra weighting will be introduced in the Tier 2 (General) monthly limit for Restricted Certificates of Sponsorship where the allocation of places is associated with the relocation of a high-value business to the UK or to support an inward investment. The Resident Labour Market Test will be waived for these applications. We were amongst a group of lawyers to meet with policy makers in spring to discuss these changes and we understand that they are still working on the specific details for this new route.

Overall the changes will drastically increase the cost of sponsoring non-EEA workers. If an employer is therefore considering hiring a Tier 2 worker in the near future, it may be worth doing this sooner rather than later. If you need advice on these changes and how best to prepare, please do contact us.

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