

# Immigration Update - October 2014

The Home Office has published a Statement of Changes to the Immigration Rules with proposed amendments to visitor visas and all tiers of the Points Based System. A summary of the most relevant changes for UK employers are listed below. Unless stated otherwise, the new rules will take effect from the 6th November 2014.

(Applications for entry clearance leave to enter or remain submitted before the 6th November will be decided in line with the Immigration Rules as of 5th November 2014).

## Business Visitors

The Business Visitor visa category allows non-EEA nationals to travel to the UK for short periods to undertake business related to their overseas employment. The scope of permitted activities that Business Visitors can undertake is to be widened to include:

- Overseas scientists or researchers who are required to "share knowledge or experience relevant to, or advise on, an international project that is being led from the UK". The scientist or researcher must remain employed and paid overseas and must not be undertaking research in the UK.
- Overseas lawyers advising a UK client on litigation and/or international transactions. The lawyer must be employed by an international law firm which has offices in the UK, and continue to be employed and paid by the overseas office during their visit to the UK.

## Tier 1 General

As outlined in our April 2014 update, the Tier 1 General scheme will close to extension applications on the 6th April 2015 and to settlement applications on the 6th April 2018. Tier 1 General migrants who apply to extend their visas on or after the 6th November 2014 will be eligible to extend their stay for a period of three years (or the period needed to take their total leave under the Tier 1 General scheme to five years, whichever is the longer period). This new provision will benefit Tier 1 General migrants granted leave before 6 April 2010 – under the current Immigration Rules they are only entitled to a two year extension of leave.

The October 2014 Statement of Changes also suggests that the Home Office may alter the qualifying criteria for Tier 1 General migrants applying for settlement after April 2015.

## Tier 2

Entry Clearance Officers and caseworkers will have authority to refuse applications made under Tier 2 where they have "reasonable grounds" to believe:

- a) the job is not a genuine vacancy; or
- b) the applicant is not appropriately qualified or registered to do the job in question (or will not be, by the time they begin the job); or
- c) the stated requirements of the job as stated on the Certificate of Sponsorship and in any advertisements for the job are inappropriate for the job on offer and/or have been tailored to exclude resident workers from being recruited.

A "genuine vacancy" is defined as "a vacancy which exists in practice (or would exist in practice were it not filled by the applicant) for a position which:

- i. Requires the jobholder to undertake the specific duties and responsibilities, for the weekly hours and length of the period of engagement, described by the Sponsor in the Certificate of Sponsorship relating to the applicant; and
- ii. Does not include dissimilar and/or unequally skilled duties such that the Standard Occupational code used by the Sponsor as stated in the Certificate of Sponsorship relating to the applicant is appropriate".

Entry clearance officers and caseworkers may request "additional information and evidence" from the sponsor and/or the migrant to allow them to consider the application. If the requested information is not received by the Home Office within 28 calendar days the application will be refused.

The Immigration Rules will also be updated to include confirmation that sponsors are not permitted to sponsor a migrant to undertake a routine role or to provide an ongoing routine service for a third party.

The resident labour market test exemption will be extended to include Tier 2 migrants who apply for an extension of leave in the UK within 28 days of their visa expiry date. The migrant must be continuing in the same occupation and for the same sponsor to qualify for the exemption. If the migrant is unable to apply for an extension of stay within 28 days, the sponsor must undertake a resident labour market test in order to sponsor the migrant.

## Tier 5

The annual allocations for the participating countries in the Tier 5 Youth Mobility scheme for 2015 have been confirmed as:

Australia: 38,000 places

Canada: 5,000 places

Hong Kong: 1,000 places

Japan: 1,000 places

Monaco: 1,000 places

New Zealand: 11,000 places

South Korea: 1,000 places

Taiwan: 1,000 places

There is a 16% increase in the allocation for New Zealand nationals following a higher number of British nationals taking part in its reciprocal scheme in 2013.

### Author

**Alexandra MacMahon**  
Immigration Adviser

T: +44 20 7006 1351

E:

[Alexandra.macmahon@cliffordchance.com](mailto:Alexandra.macmahon@cliffordchance.com)



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