

## Immigration

### Immigration Update - publication of the MAC Report

The Migration Advisory Committee (“MAC”) is the body that provides recommendations to the government about immigration policy. Whilst the MAC’s recommendations are not always followed by the government, they are a good indication as to the likely direction of future immigration policy. Last week, the latest MAC report has been published, with a specific emphasis on the impacts of EEA migration to the UK so far and recommendations for changes to immigration policy in light of the anticipated departure of the UK from the EU next year.

As stated above, it is important to be aware that the report by the MAC consists only of **recommendations** - it is not by any means certain that all, or even any, of these recommendations will actually be implemented. However, the findings and proposed changes will be of interest to businesses that are affected in any way by immigration policy - whether for EEA or non-EEA migrants.

The full report runs to 133 pages, but we have sought to summarise the key points in this newsletter for you.



- Unless a deal is reached between the UK and EU that specifically includes within it immigration arrangements, EEA workers should be treated the same as non-EEA workers in future. This would mean they would need to apply under Tier 2, for example.
- It is recommended that the Tier 2 (ICT) route is not changed at all.
- Tier 2 (General) currently is only permitted for jobs that are deemed to be at RQF 6 skill level (which is stated as being a role that is of degree-level skill) - this should be expanded to include all jobs at RQF level 3 and above.
- Despite expanding to RQF 3, it is proposed that the overall minimum salary of £30,000 should still apply as the “experienced worker” rate. Approximately 51% of roles at RQF 4 are paid at this level already, and 37% of roles at RQF 3. It is therefore considered that this salary level would still be reasonable, despite the lower skill levels.
- The Immigration Skills Charge should continue to be charged - and on the basis that EEA workers would be treated the same as non-EEA workers, would apply equally to all.
- The Resident Labour Market Test should be abolished. In the alternative, if it stays it should be substantially changed so that jobs paying £50,000 or more are exempt (currently the minimum salary for exemption is £159,600 - in the absence of any other applicable exemption). Further, it should no longer be the case that “no suitable settled workers” applied for the role - instead Sponsors should be able to recruit the best person for the job.

- The Sponsor Licence system should be reviewed, as it is considered too difficult for SMEs at present.
- The cap on Tier 2 (General) workers (being 20,700 per year) should be removed. It is considered that this unduly restricts migrants who are beneficial to the UK economy.
- It should be made easier for Tier 2 migrants to change employers, as this will help to ensure labour market competition, which will lead to increased wages for all. At present, normally a Tier 2 (General) migrant must go through a Resident Labour Market Test each time they wish to change employers.
- Although it is recommended to open Tier 2 (General) to RQF 3 and above, it is not believed that there will be a requirement to open work immigration routes to lower skilled roles at RQF 1 or 2. It is thought that there is sufficient labour for these roles from UK citizens and those migrants here under non-working routes (e.g. family visas).
- The government should consider extending the Tier 5 Youth Mobility Scheme to a greater number of countries. In addition, it should be permitted for those YMS migrants to switch to a Tier 2 visa from within the UK (currently it is necessary to leave the UK and make an Entry Clearance application under Tier 2).

In addition to the above recommendations, the MAC also stated that in their view there is insufficient monitoring by the Home Office of the actual impacts of its policies. For example, there is insufficient data on the effects on overall immigration and the economy of the Immigration Skills Charge, Immigration Health Surcharge, etc. It is also recommended that greater use of HMRC records is made, so that there is a clearer picture of the actual salaries of migrants - both under Tier 2 (for which the Certificate of Sponsorship will give an indication) and also other visa types.

Overall, it appears that the MAC's recommendations would be welcomed by most businesses - particularly those currently working with Tier 2 migrants. Removing the cap on Tier 2 (General), lowering the minimum skill level and removing the Resident Labour Market Test would all make employing migrant workers much easier, and reduce the administrative burdens on the business.



It will be interesting now to see which recommendations (if any) the government takes forward. The removal of the cap for Tier 2 (General) has long been proposed by various interested groups and opposing political parties, but may now therefore be embarrassing for the government to agree to - especially if they continue to publicly aim to reduce net migration to below 100,000. However, the reality of the needs of the UK economy and labour market, including the desire to make the UK appear as attractive as possible for foreign investment, means that some sort of easing of current immigration restrictions seems inevitable.

There is certainly a risk that the movement of goods and to some extent services, may get more difficult after Brexit. However, there seems to be the possibility that the movement of people may, perhaps ironically - given the high profile of immigration during the referendum campaigns, actually get easier.

**3HR will continue to keep you updated.**

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