



GES NewsFlash

United Kingdom – Immigration Changes Due in April

March 24, 2010

In this issue:

Summary

Tier 2 Sponsored migrants

Tier 1 (General): Highly Skilled Migrants

Tier 4 Students: Policy Changes

Immigration Fees

Other changes

People to Contact

Summary

The UK Border Agency (UKBA) will be making a number of key changes to Points Based qualifying criteria effective from 6 April 2010. With only a few weeks to go before these changes occur, employers should be checking whether any planned UK applications need to be completed before the April “go live” date is reached.

Tier 2 Sponsored migrants

Changes to the Tier 2 category that will be implemented on 6 April 2010 include the following:

- There will be three new sub-categories of intracompany transferees: established staff (akin to the existing category), graduate trainees and those coming for skills transfer;
- The qualifying employment period for established staff will be increased from 6 to 12 months. Therefore, individuals will need to have at least 12 months previous work experience within the same group company overseas in order to qualify. (Time spent in the UK as an intracompany transferee or in this subcategory will also count towards the 12 month qualifying period);
- The new graduate trainee category is designed for those coming to the UK as part of structured training programs. Graduates will only need to have 3 months prior experience with the company overseas, but their maximum length of leave will be 12 months;
- The new skills transfer category will be designed for new employees who will not fill a UK vacancy and are coming solely for skills transfer. No previous experience with the company overseas will be required, although the maximum period of leave will be 6 months;
- The established staff category will not lead to settlement. Initial leave can be granted for up to 3 years and extended for a maximum of 2 years. If the post becomes permanent, employers should recruit from the resident labor force;

- There will be an increase to the minimum salary threshold (from £17,000 to £20,000) making it harder for lower paid workers to qualify under Tier 2.

Deloitte's View

The increase in qualifying period, loss of the right to apply for indefinite leave and the apparent "capping" of the established staff sub category to 5 years are the most significant changes to the intracompany route in many years.

Although policy is not entirely clear on the subject, we would recommend that UK sponsors ensure any imminent intracompany applications are completed and assignees enter the UK before 6 April wherever possible. Alternatively, applications should be considered under the Tier 2 (General) category to allow applicants to have the chance to obtain indefinite leave.

The staffing of future projects in the UK may also need to be considered in light of the new criteria as the pool of available workers for UK based projects may be about to decrease. Long term prospects for all sub categories of intracompany transferees will also need to be discussed with candidates before transfer to set expectations appropriately.

Tier 1 (General): Highly Skilled Migrants

Changes to the Tier 1 (General) category for the highly skilled will also be implemented from 6 April. These will include:

- The minimum level of qualification under this category will be a Bachelor's degree;
- The "entry" level of previous earnings will be increased to a minimum of £25,000 ;
- High earners, having earnings of £150,000+ per annum, will be able to qualify under this category even if they cannot claim points for qualifications;
- Points for age will be awarded up to 39 years;
- The new points criteria for Tier 1 will only apply to leave granted on or after 6 April 2010. Transitional arrangements will apply to all overseas nationals who hold leave under Tier 1 (General), the Highly Skilled Migrant Programme (HSMP), or leave as a self-employed lawyer, writer, composer or artist granted prior to 6 April 2010. The points applicable for their extension applications will generally be the same as those which had to be met at the time of submitting their initial application.

Deloitte's View

The re-introduction of awarding points for holding a Bachelor's degree is

welcome news, making this category potentially available to a wider pool of highly skilled talent. However, it needs to be read in conjunction with other changes regarding how points are awarded. In particular, the level of previous earnings has significantly increased, narrowing opportunities for other candidates on lower wages.

Tier 4 Students: Policy Changes

Following a prior alert from Deloitte regarding policy changes, all the amendments mentioned came into effect on 3 March 2010. Another noteworthy clarification of policy is the prohibition on obtaining a new student visa in some circumstances where the individual has an existing visa of the same type.

UKBA has recently confirmed that where an individual holds a valid student visa and wants to study with a new Tier 4 sponsor (before that permission to stay has either expired or been curtailed), the individual must always make his/her new application from inside the UK. If a student makes a new application outside the UK it will be refused.

It has also now become apparent that immigration officers at ports of entry and entry clearance officers at British Diplomatic post overseas may seek to “test” the level of English of prospective students to ensure that it meets the minimum level required. We have heard reports of students being required to sit ad hoc English language tests at UK airports.

Deloitte's View

The full effect of the changes in student rules is yet to be seen, however already it is apparent that it has become more difficult for prospective students to enter the UK and/or to alter their course of study. Further changes to student qualifying criteria are expected in April and later in the summer.

Immigration Fees

The proposed fees published in January 2010 have now received Parliamentary approval and will come into effect on 6 April. Below is the link to the complete table of new fees:

<http://www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2010/255022/20-immigration-fees-april-2010>

Other changes

UKBA had previously announced that they were revising their policy on technical changes for Tier 2 migrants. At present, policy dictates that if a Tier 2 migrant is promoted, a new Certificate of Sponsorship would be required - and a new Resident Labour Market test undertaken for Tier 2 (General) migrants. From 6 April 2010, new policy will be clarified so that where a new job is within the same Standard

Occupational Classification Code, this will be treated as a technical change, and only require reporting on the Sponsor Management System.

A new category of 'Highly Trusted Sponsors' will be introduced on 6 April 2010 for Tier 4 licence holders. All sponsors will have to meet a set of criteria to obtain and keep 'Highly Trusted Sponsor' status. We already hear that the qualifying criteria for Tier 4 licence holders are proving controversial and will share more news on these provisions as the system is implemented. The new status is expected to be rolled out for all UK sponsors in the autumn of 2010 and will apparently bring benefits to the holder such as faster processing times.

People to Contact

If you have any questions concerning the issues in this GES NewsFlash, please contact one of the tax professionals as follows:

Margaret Burton

Tel: +207 007 1506

Tsveta Bogdanova

Tel: +207 007 2499

This NewsFlash information is also included in our bi-weekly GES newsletter, *Global InSight*, which you will receive directly if you are on the central distribution list.

If you are not on the central distribution list and received this communication by some other means, you can follow these few simple steps to be added to the central distribution list.

- Go to the [Deloitte Subscriptions Page](#) on Deloitte.com
- Make sure that under Step 1 you select "Tax" and "Global Employer Services"
- Under Step 2, select "Global Insight"
- Under Step 3, fill out your contact information and click "Save my profile"

Be sure to visit us at our Web site: www.deloitte.com/tax

If you require information about doing business in a specific country, including individual tax considerations, please log on to www.deloittetaxguides.com and select the countries of interest. In addition to detailed guides, there are at-a-glance summaries contained in the Snapshot series section.

Back to Top

1633 Broadway
New York, NY 10019 – 6754
United States

© 2010 Deloitte Touche Tohmatsu.

Deloitte refers to one or more Deloitte Touche Tohmatsu, a Swiss Verein, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu and its member firms.

This News Flash is prepared by Deloitte LLP, a limited liability partnership. For further information on any of these developments, please ask your usual Deloitte contact. This News Update is designed to keep readers abreast of current developments, but it is a general guide only and is not intended to be a comprehensive statement of the law. No liability is accepted for the opinions it contains, or for any errors or omissions. © 2010 Deloitte LLP. All rights reserved.

 [Deloitte RSS feeds](#)
