

New restrictions on skilled migrants under Tiers 1 and 2 of the Points Based System

The Home Secretary, Theresa May, last night published a Statement of Changes to the Immigration Rules, raising the points required for highly skilled migrants to qualify under Tier 1 (General) of the Points Based System (PBS), intended, together with proposed caps, to reduce the number of Tier 1 and Tier 2 migrants permitted to enter the UK.

Permanent caps will be introduced by 1 April 2011, following a formal consultation. In the meantime an interim limit will be imposed from **19 July 2010**.

Tier 1 (General)

- The points required for attributes will be increased from 75 to 80 points. In many cases this will mean that applicants will need to demonstrate earnings of an additional £10,000 to qualify. For example, a 25 year old holding a Bachelor's degree would need to show earnings of at least £50,000 (rather than £40,000 under the current Rules).
- A cap will be imposed on the number of Tier 1 migrants applying for leave to enter, from *outside* the UK only; applicants applying for leave to remain from *within* the UK will not be subject to the cap.
- Other sub-categories of Tier 1 – Entrepreneurs, Investors and Post Study Workers – will not be affected by the cap.
- Details of the precise cap number and how it will be administered are yet to be confirmed, however it is expected that the cap will represent a 5% reduction on the number of Tier 1 (General) applications approved in the last year and may be implemented on a monthly basis.
- The changes will come into effect on 19 July 2010. Applications submitted (but not determined) before 19 July will be considered under the old rules.

As a result of these changes it is likely that from 19 July 2010 a significant number of applicants who qualify under the current Immigration Rules will be unable to meet the new points criteria or, despite meeting the criteria, will be unable to obtain leave to enter the UK as a Tier 1 migrant due to the cap being reached. Tactical solutions will need to be considered, which may include applying in other categories or, where possible, applying from within the UK to avoid the cap.

Tier 2

The Government intends to reduce the number of migrants entering the UK under Tier 2 (General) (by 1,300), by restricting the number of Certificates of Sponsorship (CoS) that each sponsor is permitted to assign. The specific details on the cap and method for implementation are due to be announced shortly.

It is expected that a cap will not apply to Tier 2 (Intra-company transferees). However, note that following changes in April 2010, intra-company transferees will not be permitted to obtain settlement in the UK.

Migrants and employers are advised to make applications/assign COS before the changes on 19 July 2010 to avoid being adversely affected by the points increase and cap introduction. Employers are also encouraged to participate in the consultation to register their views on proposals for permanent caps in 2011.

Please contact your LDS Client Care Manager or Anna Robinson should you have any queries.

For US immigration law queries, please contact Anastasia Tonello (New York) or Paul Samartin (London).

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Laura Devine Solicitors | Immigration Law
lauradevinesolicitors@lauradevine.com

11 Old Jewry, London EC2R 8DU, UK | t: +44 (0)20 7710 0700 | f: +44 (0) 20 7710 0719

Associated with:

Laura Devine Attorneys LLC | 222 East 46th Street, Suite 301N, New York, NY 10017, USA | t: +1 (212) 661 5401 | f: +1 (212) 661 5405

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