

## UK immigration update – Spring 2009

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### **New measures to raise the bar for foreign workers**

Following Home Secretary Jacqui Smith's announcement to 'raise the bar' for foreign workers wishing to enter the UK, new immigration rules came into effect on 31 March 2009, amending the Points Based System for Tiers 1 (for highly skilled migrants) and 2 (for sponsored skilled migrants) and implementing the new Tier 4 (for students).

### **Tier 1 (General) changes**

Tighter criteria now apply to applicants applying for an initial period of leave under Tier 1 (General) of the Points Based System. Such applicants must satisfy the following higher criteria in order to score points for their qualifications or earnings:

- the minimum requirement for qualifications has been raised from a Bachelor's degree to a Master's degree (recognised by UK NARIC);
- the minimum threshold of earnings received within the 12 month period claimed has increased from £16,000 to £20,000.

These changes do not affect migrants who already hold leave under Tier 1 (General) (or under its predecessor scheme, the Highly Skilled Migrant Programme).

### **Tier 1 (Post Study Work) changes**

Applicants are no longer able to obtain points for postgraduate certificates and diplomas, with the exception of a UK Postgraduate Certificate of Education (PGCE), only Bachelor's, Master's or PhD level qualifications will qualify. As a result, post graduate diplomas and certificates previously recognised under Tier 1 (Post Study Work), e.g. Graduate Diploma in Law (GDL), will not score points under the new criteria.

### **Tier 2 changes**

The changes to Tier 2 are intended to prioritise UK workers in the UK job market by restricting the flow of sponsored migrant workers entering the UK:

- to satisfy the resident labour market test (RLMT) prior to issuing a Certificate of Sponsorship under Tier 2, employers must have advertised the jobs to resident workers through JobCentre Plus, in addition to another medium specified in the relevant sector Code of Practice;
- the shortage occupation list will be revised in April 2009 and it is anticipated that several occupations (particularly in the catering and construction sectors) may be removed. The list will also be used to trigger skills reviews which identify whether training should be provided to resident workers to fill specific occupations from the resident labour market;

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### Further reviews of PBS in future

The Government has also asked the Migration Advisory Committee (MAC) to review the current arrangements, and to provide the following:

- to advise whether there is an economic case for restricting Tier 2 to shortage occupations only (i.e. excluding intra-company transfers and applicants identified via the RLMT) – MAC will be announcing a call for evidence and is due to report later in the year;
- assess the economic contribution made by the dependants of PBS migrants and their role in the labour market (whether family members should have unrestricted access to the resident labour market) and report by July 2009;
- assess whether any further changes to Tier 1 are advisable given the changing economic circumstances and report by October 2009.

### Business and special visitors

Under the Statement further changes have been made to the visitor category, including:

- persons under the age of 18 may now enter under the business, sports and entertainer visitor categories;
- the requirements to enter as a secondee, adviser, consultant, trainer, trouble shooter, and for training in techniques and work practices, have been clarified;
- additional provision for academic visitors to be accompanied by their family members to the UK for up to 12 months.

### Visa nationals list

The following changes have been made to the visa nationals list:

- nationals of South Africa, Bolivia, Lesotho, Swaziland and Venezuela countries were added to the visa nationals list from 3 March 2009, requiring prior entry clearance to be obtained before entering the UK;
- Venezuelan nationals travelling on machine readable biometric passports are exempt from the requirement to obtain prior entry clearance for transit or as a visitor;
- Taiwanese nations were removed from the visa national list on 3 March 2009 and no longer require prior entry clearance in order to visit the UK for up to six months.
- Jamaican nationals are now required to apply for either a Visit in Transit visa (VIT) or Direct Airside Transit visa (DATV) in order to transit through the UK;

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Fee increases will apply from 6 April 2009, a selection of which are detailed below:

Application type	PBS subcategory	Fee 2008-9	Fee 2009-10
Entry clearance application (out of country)	Tier 1 (General)	£600	£675
	Tier 1 Investor	£600	£675
	Tier 1 Entrepreneur	£600	£675
	Tier 1 Post Study	£205	£265
	Tier 2	£205	£265
Postal (in country)	Tier 1 (General)	£750	£820-£1020
	Tier 1 Investor	£750	£820
	Tier 1 Entrepreneur	£750	£820
	Tier 1 Post Study	£400-£600	£500-£700
	Tier 2	£400-£600	£465-£665

### Steps for employers

This document briefly outlines the relevant changes; it is no exhaustive and individuals should seek specialist advice regarding any specific enquiries they may have about their own circumstances. If you have any concerns regarding the impact of these changes or the proposals put forward to the MAC, please contact us.

### Laura Devine Solicitors

Laura Devine Solicitors is a leading immigration firm, ranked in the top tier of the Legal 500 and Chambers directories, and advises on all aspects of UK and US immigration and nationality law. Should you have any queries, please contact any member of the team.

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