

STATEMENT OF INTENT AND TRANSITIONAL MEASURES: TIER 2 OF THE POINTS BASED SYSTEM



Home Office

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INTRODUCTION

In October 2011, the Government asked the Migration Advisory Committee (MAC) to advise at what the level the limit on Tier 2 (General) should be set at from April 2012, taking account of the economic, labour market, social and public service impacts of the limit and the uptake of Tier 2 (General) and Intra-Company Transfer visas in 2011/12. The MAC was also asked to consider some associated policies, including the Intra-Company Transfer (ICT) route, the Resident Labour Market Test and the minimum skills level for Tier 2. The MAC's report was published on 28 February 2012. The Government has considered the MAC's advice and will make changes to the Immigration Rules as regards the Tier 2 category from 6 April 2012:

- The current limit of 20,700 on the Tier 2 (General) category will be renewed from 6 April 2012 and again from 6 April 2013 until 5 April 2014. The limit will therefore be at the same level and will operate in the same way as the current limit for 2011/12. Unused places will not be carried over from one limit to the next.
- The Government expects to commission advice from the MAC in mid-2013 on a new limit to be applied from April 2014. We are departing from the current 12-month cycle for reviewing the limit in response to concerns from employers about frequent changes to the immigration system.
- The minimum skills level for Tier 2 migrants, including Intra Company Transferees, will be raised from National Qualifications Framework (NQF) 4 to NQF 6 from 14 June 2012. There will be some limited exceptions to this, for those on the Shortage Occupation List and in certain creative occupations.
- When the MAC considers the level of the annual limit from April 2014, it will also be asked to consider the impact of the minimum skills level on growth and on levels of net migration.
- From 14 June 2012 there will be some relaxations in the operation of the Resident Labour Market Test:-
 - those jobs paid more than £70k and specified PhD level occupations will have to be advertised but not in Jobcentre Plus.
 - Sponsors may select the best candidate, regardless of whether they are a resident worker, for vacancies in 'PhD-level' occupations. This is a change from the current Resident Labour Market Test requirement where a suitably skilled settled worker must be selected.
 - For PhD-level jobs only, the period for which the Resident Labour Market Test is deemed to have been satisfied (other than under the milkround provisions) will be extended from 6 months to 12 months.
- There will be no change at present in the salary thresholds in the ICT route (£40k and £24k) and the rules applied to ICTs' allowances will remain unchanged.
- The MAC will shortly be commissioned to review the minimum appropriate salary rates and other requirements, as set out in the Tier 2 Codes of Practice.

The changes set out in this Statement of Intent form part of a package of reforms which will be introduced on 6 April and 14 June. The other changes were set out in the following Statements of Intent:

- Changes affecting Study, Post-Study Work and Maintenance Requirements for Students and Workers:
www.homeoffice.gov.uk/publications/agencies-public-bodies/changes-study-visa-soi
- Changes affecting Employment-related Settlement, Tier 5 and Overseas Domestic Workers:
www.homeoffice.gov.uk/publications/immigration/employment-related-settlement/

This statement provides an overview of how the new arrangements will operate. It should not be seen as a definitive account. We are also laying the necessary changes to the Immigration Rules before Parliament, and the UK Border Agency is publishing detailed guidance for migrants and employers.

This document also includes information about the transitional measures which will apply to migrants with leave to remain in Tier 2 (General) granted before 6 April 2012 and 14 June 2012.

TIER 2 CATEGORIES AFFECTED BY THE LIMIT

The following Tier 2 categories will not be subject to the limit, as now:-

- Intra-Company Transfers, Sportspeople or Ministers of Religion
- Tier 2 migrants extending their stay with their original employer or switching to a new employer
- Those admitted in another category of stay and applying to switch in-country into the Tier 2 (General) category, except dependants of Tier 4 migrants as noted below.
- Those seeking admission to fill a vacancy attracting a salary of £150,000 or more.

Certificates of Sponsorship (CoS) for these applications will continue to be known as ‘unrestricted’ and sponsors who have received an allocation of CoS from the UK Border Agency may allocate them to migrants in the unrestricted categories without prior permission.

There will be one change in the categories subject to the limit: as announced in the February Statement of Intent on changes affecting study and Post-Study Work, where a person with leave to enter or remain as the dependant of a Tier 4 migrant switches to become a Tier 2 migrant in their own right, this switch will be subject to the Tier 2 limit.

For migrants subject to the limit, as now the sponsor must apply to UKBA for permission to issue a restricted CoS. The limit will be divided into twelve equal monthly allocations of 1, 725 CoS.

If the monthly allocation is undersubscribed we will award CoS to all qualifying applications. Any unallocated CoS will be added to the following month’s allocation, until the end of the year when the new limit will be set.

Where the monthly limit is oversubscribed, we will award CoS to those applications which score the most points from the table below. An employer who has applied for, but not been allocated, a CoS will have to re-apply. Their applications will not be automatically rolled over to the next month. We will not make any changes to the allocation points table we introduced in 2011:

| Type of job | Points | Salary on offer | Points |
|--|--------|------------------------|--------|
| Shortage Occupation | 75 | £20,000 - £20,999.99 | 2 |
| PhD-level occupation code and job passes Resident Labour Market Test | 50 | £21,000 - £21,999.99 | 3 |
| | | £22,000 - £22,999.99 | 4 |
| | | £23,000 - £23,999.99 | 5 |
| | | £24,000 - £24,999.99 | 6 |
| Job passes Resident Labour Market Test | 30 | £25,000 - £25,999.99 | 7 |
| | | £26,000 - £26,999.99 | 8 |
| | | £27,000 - £27,999.99 | 9 |
| | | £28,000 - £31,999.99 | 10 |
| | | £32,000 - £45,999.99 | 15 |
| | | £46,000 - £74,999.99 | 20 |
| | | £75,000 - £99,999.99 | 25 |
| | | £100,000 - £149,999.99 | 30 |

CHANGES TO THE MINIMUM SKILLS LEVEL

We are raising the minimum skills level for an eligible job from NQF level 4 to NQF level 6. A full list of qualifying occupations by Standard Occupational Classification (SOC) code, drawn up by the MAC, can be found at Appendix A. From 14 June 2012, only jobs in an occupation within these SOC codes will be eligible for new applicants within the Tier 2 (General) and Tier 2 (ICT) categories.

SELECTING THE APPROPRIATE SOC CODE

Minimum salary requirements and skills levels for all eligible occupations are published in the Tier 2 Codes of Practice available on the UK Border Agency website at www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/codesofpractice/.

To find the relevant code of practice for a job, a Tier 2 sponsor must first identify the SOC code that most closely matches the job description. The SOC codes are published by the Office for National Statistics and guides are accessible from the link above. The raising of the skills level to NQF 6 will result in 27 occupations being removed from the Tier 2 eligible list. A list of those occupations that are no longer eligible is attached at Appendix B.

We have encountered examples of sponsors assigning the incorrect SOC code to the job. It is important that sponsors review the SOC codes they have been using to ensure that the most appropriate code is being used, and that the job reflects the skill level of the code. For example, some employers have used SOC code 1152 (Office Managers) for senior global manager roles, when 1112 (Directors and Chief Executives of major organisations) or another of the managerial codes would have better reflected the role.

The Codes of Practice and the jobs within them can change over time. Sponsors should check the latest version before assigning a Certificate of Sponsorship.

EXCEPTIONS TO THE MINIMUM SKILLS LEVEL

We shall continue to include on the Shortage Occupation List those jobs that are in shortage and are at a lower skill level than NQF 6 but are at least skilled to NQF 4. The MAC will be asked to review the Shortage Occupation List later this year.

We will also continue to accept restricted CoS applications in the following creative sector SOC codes, which are skilled to NQF 4 but not NQF 6. The place of creative occupations in Tier 2 will be reviewed later this year.

- 3411 - Artists
- 3412 - Authors, Writers
- 3413 - Actors, Entertainers
- 3414 - Dancers, Choreographers
- 3422 - Designers, product, clothing-related

RESIDENT LABOUR MARKET TEST

We are introducing changes to the requirements of the Resident Labour Market Test. This test is required to be carried out prior to a CoS being assigned to a Tier 2 migrant.

For applications made from 14 June 2012, jobs paying an annual salary of over £70,000 but less than £150,000 or in PhD-level occupations will no longer need to be advertised in 'Jobcentre Plus' prior to a CoS being issued to a Tier 2 (General) migrant. However, the job must be advertised in at least one medium as specified in the relevant Code of Practice.

For applications made from 14 June 2012, sponsors can select the best candidate for PhD-level occupations, regardless of whether they are a resident worker. This is a change from the current Resident Labour Market Test requirement where a suitably skilled settled worker must be selected, if one has been identified.

For applications made from 14 June 2012, the period for which the Resident Labour Market Test is deemed to have been satisfied will be extended from 6 months to 12 months from the date the vacancy is first advertised for PhD-level occupations only.

The list of PhD-level occupations and the relevant SOC codes is below.

- 1137 - Research and Development Managers
- 2111 - Chemists
- 2112 - Biological Scientists and BioChemists
- 2113 - Physicists, Geologists and Meteorologists
- 2311 - Higher Education Teaching Professionals
- 2321 - Scientific Researchers
- 2322 - Social Science Researchers
- 2329 - Researchers not elsewhere classified.

TIER 2 TRANSITIONAL ARRANGEMENTS

We will consider applications for entry clearance made on or after 14 June 2012 in accordance with the new Rules in force after that date. This means that if a migrant applies for entry clearance or leave to remain under Tier 2 on or after 14 June, we will consider the application under the new rules.

The following transitional arrangements will apply to those who already have leave as a Tier 2 migrant and who want to extend their leave or switch employer:

- The new Tier 2 skills level will not apply to those with leave under Tier 2 or as a work permit holder granted before 14 June 2012 and who are seeking to extend their stay as a Tier 2 migrant.
- The skills level will not apply to Tier 2 migrants or work permit holders granted leave before 14 June 2012 who are applying for leave to remain in order to change their employer. Any such change of employment application will, however, be subject to the Resident Labour Market Test requirement as at present.

APPENDIX A: LIST OF OCCUPATIONS SKILLED TO NQF 6

TIER 2 OCCUPATIONS SKILLED TO NQF 6

| SOC Code | Occupation |
|----------|---|
| 1111 | Senior officials in national government |
| 1112 | Directors and chief executives of major organisations |
| 1113 | Senior officials in local government |
| 1114 | Senior officials of special interest organisations |
| 1121 | Production, works and maintenance managers |
| 1122 | Managers in construction |
| 1123 | Managers in mining and energy |
| 1131 | Financial managers and chartered secretaries |
| 1132 | Marketing and sales managers |
| 1133 | Purchasing managers |
| 1134 | Advertising and public relations managers |
| 1135 | Personnel, training and industrial relations managers |
| 1136 | Information and communication technology managers |
| 1137 | Research and development managers |
| 1141 | Quality assurance managers |
| 1151 | Financial institution managers |
| 1161 | Transport and distribution managers |
| 1171 | Officers in armed forces |
| 1172 | Police officers (inspectors and above) |
| 1173 | Senior officers in fire, ambulance, prison and related services |
| 1181 | Hospital and health service managers |
| 1182 | Pharmacy managers |
| 1184 | Social services managers |
| 1212 | Natural environment and conservation managers |
| 2111 | Chemists |
| 2112 | Biological scientists and biochemists |
| 2113 | Physicists, geologists and meteorologists |
| 2121 | Civil engineers |
| 2122 | Mechanical engineers |
| 2123 | Electrical engineers |
| 2124 | Electronics engineers |
| 2125 | Chemical engineers |
| 2126 | Design and development engineers |
| 2127 | Production and process engineers |

TIER 2 OCCUPATIONS SKILLED TO NQF 6

| SOC Code | Occupation |
|----------|--|
| 2128 | Planning and quality control engineers |
| 2129 | Engineering professionals not elsewhere classified |
| 2131 | IT strategy and planning professionals |
| 2132 | Software professionals |
| 2211 | Medical practitioners |
| 2212 | Psychologists |
| 2213 | Pharmacists/ pharmacologists |
| 2214 | Ophthalmic opticians |
| 2215 | Dental practitioners |
| 2216 | Veterinarians |
| 2311 | Higher education teaching professionals |
| 2312 | Further education teaching professionals |
| 2313 | Education officers, school inspectors |
| 2314 | Secondary education teaching professionals |
| 2315 | Primary and nursery education teaching professionals |
| 2316 | Special needs education teaching professionals |
| 2317 | Registrars and senior administrators of educational establishments |
| 2319 | Teaching professionals not elsewhere classified |
| 2321 | Scientific researchers |
| 2322 | Social science researchers |
| 2329 | Researchers not elsewhere classified |
| 2411 | Solicitors and lawyers, judges and coroners |
| 2419 | Legal professionals not elsewhere classified |
| 2421 | Chartered and certified accountants |
| 2422 | Management accountants |
| 2423 | Management consultants, actuaries, economists and statisticians |
| 2431 | Architects |
| 2432 | Town planners |
| 2433 | Quantity surveyors |
| 2434 | Chartered surveyors (not quantity surveyors) |
| 2441 | Public service administrative professionals |
| 2442 | Social workers |
| 2443 | Probation officers |
| 2444 | Clergy |

TIER 2 OCCUPATIONS SKILLED TO NQF 6

| SOC Code | Occupation |
|----------|--|
| 2451 | Librarians |
| 2452 | Archivists and curators |
| 3212 | Midwives |
| 3211 | Nurses |
| 3214 | Medical radiographers |
| 3215 | Chiropodists |
| 3221 | Physiotherapists |
| 3223 | Speech and language therapists |
| 3222 | Occupational therapists |
| 3229 | Therapists not elsewhere classified |
| 3415 | Musicians |
| 3416 | Arts officers, producers and directors |
| 3431 | Journalists, newspaper and periodical editors |
| 3432 | Broadcasting associate professionals |
| 3433 | Public relations officers |
| 3512 | Aircraft pilots and flight engineers |
| 3532 | Brokers |
| 3534 | Finance and investment analysts/advisers |
| 3535 | Taxation experts |
| 3565 | Inspectors of factories, utilities and trading standards |
| 3568 | Environmental health officers |

APPENDIX B

OCCUPATIONS SKILLED TO NQF 4 THAT ARE NO LONGER ELIGIBLE FOR TIER 2

| SOC Code | Occupation |
|----------|---|
| 1142 | Customer care managers |
| 1152 | Office managers |
| 1174 | Security managers |
| 1183 | Healthcare practice managers |
| 1185 | Residential and daycare managers |
| 1219 | Managers in animal husbandry, forestry and fishing |
| 1222 | Conference and exhibition managers |
| 1231 | Property, housing and land managers |
| 1235 | Recycling and refuse disposal managers |
| 1239 | Managers and proprietors in other services not elsewhere classified |
| 3121 | Architectural technologists and town planning technicians |
| 3123 | Building inspectors |
| 3131 | IT operations technicians |
| 3213 | Paramedics |
| 3218 | Medical and dental technicians |
| 3319 | Protective service associate professionals not elsewhere classified |
| 3513 | Ship and hovercraft officers |
| 3531 | Estimators, valuers and assessors |
| 3537 | Financial and accounting technicians |
| 3539 | Business and related associate professionals |
| 3541 | Buyers and purchasing officers |
| 3543 | Marketing associate professionals |
| 3551 | Conservation and environmental protection officers |
| 3561 | Public service associate professionals |
| 3564 | Careers advisers and vocational guidance specialists |
| 3566 | Statutory examiners |
| 3567 | Occupational hygienists and safety offices (health and safety) |



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