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Points-Based System: The Tier 2 migration route for skilled workers and the immigration cap

What is the Tier 2 Migration Route for skilled workers?

This is the route within the UK Visas and Immigration points-based system under which skilled workers from outside the European Economic Area may come to work for a particular employer in the UK. This information sheet discusses the Tier 2 (General) route. There are separate rules for transfers of staff within companies that have offices in the UK and abroad under the Tier 2 (Intra-Company Transfer Route).

For a business or organisation to sponsor a worker from outside of the European Economic area, it must be licensed with the Home Office and be able to demonstrate for each job that it cannot secure a worker with the necessary skills from within the 'resident labour market', that is, among workers from the European Economic Area. A business can do this if the type of job is listed on the national shortage occupation list or by demonstrating that it has been unsuccessful in recruiting a worker with the necessary skills from the European Economic Area (including the UK) for a specific post. The employer may then issue a certificate of sponsorship for the individual they wish to bring to work in the UK. Once issued with such a certificate, the worker will need to apply for leave to enter the UK under Tier 2 (General) and meet all the relevant requirements under the Immigration Rules.

Are there other restrictions on migration for skilled employment under Tier 2 (General)?

Yes. The salary offered for the post must be more than £20,800 (with some exceptions) and considered appropriate to the job by the Home Office and the job must also require a specified level of skills. The worker is also required to have an appropriate level of English. There is a limit on the numbers of workers who can be brought into the UK under the Tier 2 (General) route. This limit is known as the immigration cap.

What is the immigration cap?

This is a limit on the numbers of skilled workers earning less than £155,300 per year who may be brought to the UK under the Tier 2 (General) skilled migration scheme. The limit was introduced

by the then Government in 2011 to meet its commitment to reduce net migration to the UK. Both the immigration cap and the commitment to reduce net migration have been renewed by the current Government. The annual limit under the cap is 20,700 workers, a figure which is divided into 12 (uneven) monthly allocations.

Has the immigration cap ever been reached?

The monthly immigration cap was reached for the first time in June 2015. It was reached again in July 2015. This meant that large numbers of applications were refused simply because the limit of 1650 applications was reached. The limit is likely to be reached in subsequent months.

How are applications prioritised if the cap is reached?

Applications to sponsor a worker score points and are prioritised accordingly, with the highest scoring roles allocated under the cap first. If the role is on the national shortage occupation list then it will score a high number of points for this and the application is likely to be successful. Jobs requiring a PhD qualification are scored similarly highly. Other roles receive points according to their salary, with higher paid jobs scoring larger numbers of points. If the immigration cap is exceeded by fewer than 100 applications then places are used from the next month's allocation. If the cap is exceeded by more than 100 applications, large numbers of applications may be refused even if there was room within the monthly limit for some of these applications. This is because UK Visas and Immigration refuses applications scoring the same number of points at the relevant level in order to treat all applications equally.

Are there any problems with the way applications are prioritised?

There are many debates about the way in which applications are prioritised. It is argued that there is a shortage of nurses and other healthcare workers in the UK but these roles are not on the Government's national shortage occupation list. These roles will typically score low numbers of points under the scheme because of the low salaries these jobs attract and this increases the chances of applications being refused when the cap is met. Prioritising applications on the basis of salary level, which contributes to the total number of points scored, means professions where pay is lower are disproportionately affected. In addition to healthcare workers, engineers, teachers, lawyers, IT workers, architects, those in the technology and creative industries were affected in June and July 2015. The approach can also disadvantage small and medium-sized enterprises and start-ups as well as businesses in regions outside London where salaries are typically lower.

What is ILPA doing?

ILPA has written to the Rt. Hon. James Brokenshire MP, Minister for Immigration and Security to raise concerns about the operation of the immigration cap and its implications for businesses. We shall also be responding to the [Call for Evidence: Review of Tier 2](#) (deadline 25 September 2015), following which the Migration Advisory Committee will make recommendations to the Government. Businesses and professional organisations affected are also encouraged to provide evidence.