

# ILPA information sheet

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## Employment-related Settlement 1 – Consultation

*3<sup>rd</sup> August 2011*

On 9 June 2011, the UK Border Agency published its consultation “Employment related settlement, Tier 5 and overseas domestic workers”. This information sheet provides information about the consultation (which closes on 9 September 2011). The consultation documents can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/employment-related-settlement/>

### **Proposals on employment related settlement**

The consultation includes the following proposals:

- To categorise all visas as either ‘temporary’ or ‘permanent’.
- To cap the maximum period of limited leave (permission to be in the UK) to be granted to Tier 1 (highly skilled) migrants to a period of five years
- To restrict the number of Tier 1 (exceptional talent) migrants to be granted settlement
- To generally remove the opportunity for Tier 2 (skilled) migrants to apply for settlement
- To consider whether specific groups of Tier 2 (skilled) migrants (examples referred to are ministers of religion, elite sportspeople and migrants earning over £150,000) should continue to be permitted an opportunity to apply for settlement
- To create a new category, into which the most exceptional Tier 2 (skilled) migrants could switch after three years in the UK with an opportunity to apply for settlement
- If creating such a new category, to introduce “robust” selection criteria for it and introduce a limit on the number of Tier 2 (skilled) migrants permitted to switch into it
- To limit to a maximum period of five years, the period over which Tier 2 (skilled) migrants and their dependants may stay in the UK
- To introduce these changes for those who entered the Points Based System from April 2011

The proposal to categorise all visas as ‘temporary’ or ‘permanent’ seems likely to be one that would cause confusion. The proposal is that ‘permanent’ visas would be visas that allow someone to apply for settlement (indefinite leave to remain) as distinct from ‘temporary’ visas which would not allow this. Such ‘permanent’ visas would not be permanent. Nor would they guarantee that someone would be granted a permanent status. Indeed, even if a person was granted settlement, there would still be circumstances (as now) in which that could be taken away.

The majority of these proposals are intended to greatly reduce the opportunities to apply for settlement for those migrants who are permitted to come to the UK to work; and to restrict the

period of time in which these migrants may stay in the UK. One concern is that, if implemented, these proposals will mean that migrants, whom employers in the UK may wish to attract to the UK, will instead go to other countries where there are better opportunities to settle.

If the last proposal listed above is implemented, this would provide protection against the changes for migrant workers who had begun working in the UK under the Points Based System before April 2011. If these workers continued in the UK under the Points Based System, they would continue to have an opportunity to apply for settlement regardless of the other proposals listed above.

It is also proposed to introduce an English language requirement for adult dependants of Tier 2 (skilled) migrants who apply to come to or stay in the UK in a category that provides an opportunity to apply for settlement. If the proposals listed above were implemented, this would affect the dependants of migrants applying to enter the proposed new category after three years in the UK.

### **Proposals on Tier 5**

The consultation includes the following proposals:

- To restrict the maximum period of leave to be granted to Tier 5 (temporary work) migrants to 12 months
- To no longer allow Tier 5 (temporary work) migrants to bring their dependants (partners and children) to the UK with them; or to remove the right of those dependants to work
- To raise the minimum skill level required to graduate level for migrants wishing to come to the UK under a government exchange programme

### **Proposals on overseas domestic workers**

The “Employment-related Settlement 2 – Domestic Workers Consultation” provides information about the proposals for this group.

### **Responding to the consultation**

The consultation closes on 9 September 2011. Responses should be received by the UK Border Agency on or before this date. Responses can be sent by post or by email to:

Work and settlement consultation  
UK Border Agency  
1<sup>st</sup> Floor, Green Park House, 29 Wellesley Road  
Croydon CR0 2AJ  
[Worksettlementconsultations@homeoffice.gsi.gov.uk](mailto:Worksettlementconsultations@homeoffice.gsi.gov.uk)

The consultation document sets out 32 questions. There is a questionnaire, which may be used to respond to the consultation. However, the following should be noted:

- It is not necessary to use the questionnaire or to answer all the specific questions asked.
- If the consultation document and proposals require a response that does not directly respond to a specific question, it is perfectly appropriate to make that response. If possible, it may be useful to include it with any response to a question that seems to most closely relate to it.
- Many of the consultation questions ask for a response of either Yes, No or No Opinion. If none of these responses are appropriate, it is perfectly appropriate to say so and not tick Yes, No or No Opinion.
- The questionnaire invites answers to some questions only if you have answered Yes to a previous question. If you answered No to the previous question, you should not be put off answering any question on which you have a view.