

# ILPA information sheet

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## Economic Immigration Cap

12<sup>th</sup> July 2010

The Government's full coalition agreement published on 20 May 2010 includes the following statement:

*"We will introduce an annual limit on the number of non-EU economic migrants admitted into the UK to live and work."*

This information sheet provides information about this statement, and changes to the Immigration Rules that are being made and two current consultations which relate to this statement.

### Interim measures

On 28 June 2010, the Home Secretary announced to Parliament that the Government intended to introduce an annual immigration limit in April 2011. In the meantime, the Government would consult about how that limit should be set and who it should cover.

At the same time, the Home Secretary announced three interim measures. These affect people who wish to come to the UK under Tier 1 (highly skilled migrants) and Tier 2 (skilled workers) of the points based system. She said these would have two aims:

- to prevent a rise in applications before the limit is introduced next year
- to ensure that what she referred to as "*the brightest and best*" highly skilled migrants continue to come to the UK under Tier 1 of the points based system

The interim measures will take effect from 19 July. The three measures are:

- a limit will be introduced on the number of applications to come to the UK which will be granted under Tier 1
- the criteria which have to be met by someone applying to come to the UK under Tier 1 will be raised (for many this will effectively raise the level of previous earnings they will need – nb. previous earnings are subject to a multiplier depending on the country of origin to try to ensure that people from countries where salaries are generally lower are not disadvantaged)
- there will be a reduction in the number of certificates of sponsorship which will be granted to licensed employers permitted to sponsor migrant workers to come to the UK under Tier 2

### Consultation

The consultation announced by the Home Secretary has been published on the UK Border Agency website. It closes on 17 September 2010. The consultation document is available at:

<http://www.ind.homeoffice.gov.uk/sitecontent/documents/aboutus/consultations/limits-on-non-eu-migration/>

The Migration Advisory Committee (MAC) advises the Government on immigration. The MAC will advise the Government about the introduction of an annual limit on immigration. Before doing so the MAC is consulting, and it has published a consultation. It closes on 7 September 2010. The MAC's consultation document is available at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/mac-consultation-annual-limit/>

### **Who will the cap apply to?**

The UK Border Agency consultation says that the Government's intention is to only apply the immigration cap to Tier 1 (highly skilled migrants) and Tier 2 (skilled workers). However, it is not intended to apply the cap to all migrants within these tiers. It is not intended to apply the cap to Tier 1 investors and entrepreneurs or Tier 2 ministers of religion and elite sports people. Tier 1 post-study workers are also outside the scope of the consultation, but the Government's intention is to publish proposals later in the year for changes affecting these migrants.

The consultation asks whether the cap should be applied to limit the number of migrants who come on intra-company transfers. It also asks whether there should be a limit on the number of dependants of Tier 1 and Tier 2 migrants permitted to come to the UK.

### **How will the cap apply?**

The UK Border Agency consultation makes suggestions as to how the immigration cap could be applied. It indicates the cap may be applied in different ways for different categories of migrant.

One method for applying a cap is referred to as a 'pool'. Under this method, those wishing to come to the UK would apply to be entered into a pool of candidates. The application process might be very similar to the process now for applying for permission to come to the UK, except that (if successful) the applicant would not get permission to come but instead would be entered into the pool of candidates. At certain times the UK Border Agency would invite candidates from the pool to come to the UK. The UK Border Agency would choose these candidates according to which of them it thought were the best candidates in the pool. If someone was in the pool for six months without being invited to come to the UK, he or she would be removed from the pool.

Another method is referred to as 'first come first served'. Under this method, applications for permission to come to the UK would be dealt with in the order in which the UK Border Agency receives them. When the limit is reached, no more applications would be accepted.

Another method is referred to as 'auctions'. Under this method, the UK Border Agency would invite employers to bid for allocations of certificates of sponsorship for sponsoring migrant workers to come to the UK. A limited number of certificates would be available and these would be given to the employers who bid to pay the highest fees.

The consultation makes other proposals. These include:

- Raising the minimum criteria for entry to the UK under Tier 1
- Introducing additional criteria, by which applicants under Tier 1 or Tier 2 can improve their chance of being selected (suggested criteria include – having a higher level of English language ability, having skilled dependants, having health insurance)
- Limiting Tier 2 to migrant workers coming to fill jobs that are on the shortage occupation list and for which the employer has first advertised unsuccessfully to recruit in the UK