

Mobility: immigration alert

December 2019

United Kingdom

General election: Immigration outlook

Executive Summary

Following the UK election on 12 December 2019 and the return to a governing party with a working majority in the UK parliament, we expect a number of significant immigration announcements over the coming weeks and months.

These could lead to the most significant changes in the UK immigration system in over 40 years and this alert takes stock of recent immigration policy developments in order to help clients engage with these reforms and plan strategically around the opportunities and challenges they bring.

Summary of developments

Migration Advisory Committee

Many developments since 2017 come from the UK government's Migration Advisory Committee (MAC) which was set up specifically to advise the government, through wide consultation with interested stakeholders, on immigration policy matters.

- July 2017: Theresa May's government asked the MAC to advise on the impact on the UK labour market of the UK's exit from the European Union and how the UK's immigration system should be aligned with a modern industrial strategy (focusing on science, research and innovation)

- September 2018: The MAC issued initial recommendations, including no preferential treatment for EU nationals post Brexit, less bureaucracy for employers and the easing of restrictions for highly skilled migrants
- December 2018: Theresa May's government published a White Paper announcing the 'Future Skills-Based Immigration System' (details below)
- June 2019: The MAC was asked to look at salary thresholds associated with skilled worker visas (currently Tier 2)
- July 2019: Boris Johnson became UK Prime Minister and Priti Patel replaced Sajid Javid as Home Secretary (The UK's immigration system is managed by the Home Office)
- September 2019: The MAC was asked a follow up question on how the UK could adopt an Australian style points-based system
- November 2019: The MAC's consultation with business closed, with the MAC due to report back to Government in January 2020

December 2018 White Paper on the Future Skills Based Immigration System

The December 2018 white paper sets out the government's vision for the UK's new immigration system to be implemented from 2021.

- A single unified immigration system under which both EU and non-EU nationals arriving from 2021 need to meet the same criteria (for the first time in 40 years)
- Preferential immigration arrangements possible under reciprocal measures in free trade agreements or '*on the basis of risk*'
- New short term options for 'low risk' nationals:
- A one year transitional visa allowing work at any skill level, with a possible cap on numbers and nationalities to run to 2025 and then be reviewed
- A special UK-EU version of the Tier 5 Youth Mobility Visa, allowing 2 years of work at any skill level
- The lifting of restrictive policies and an easing of administrative burden:
- Lighter touch sponsorship system
- Removal of the Resident Labour Market Test requirement
- Removal of the annual cap on skilled migration (currently Tier 2)
- A streamlined application process with shorter waiting times
- A digitised immigration status, ending reliance on Biometric Residence Permits which are frequently lost
- Fewer repeat requests for data that is already held by another government body

Election campaign

Before the UK election the Conservative party made a number of announcements on prospective immigration policy.

- The reintroduction of a Post Study Work visa (now called the Graduate Route) to allow overseas students starting university degree courses from 2020/21 to remain in the UK for two years after graduation, enabling them to work or look for work

During the Election Campaign

- The introduction of a 'Australian-style' points-based immigration system to '*attract the best and brightest from all over the world*' was included in the Conservative Party's manifesto
- Special immigration routes for those '*who will make the biggest contribution*' was also included in the manifesto with the following examples:
 - The NHS Visa: qualified doctors, nurses and allied health professionals with a job offer from the NHS, who have been trained to a recognised standard, and who have good working English, will be offered fast-track entry, reduced visa fees and dedicated support to come to the UK with their families
 - The best technology and science graduates from the top universities in the world and those who win top scientific prizes will be offered fast-track entry to the UK
 - A Post-Study Work visa (as detailed above)
 - A start-up visa, alongside new rules for those of exceptional talent, will attract the entrepreneurs of the future

In Campaign Statements

- The MAC would be given the power to set the number of visas needed in key sectors which is an expansion of its current responsibilities
- A digital immigration status would be introduced from 2022, as outlined in the 2018 White Paper
- The introduction, post-Brexit, of a pre-travel clearance requirement for EU citizens [and presumably other non-visa nationals], similar to the USA's ESTA or the EU's proposed ETIAS system

The overall picture is that, notwithstanding other announcements, most people coming into the country will need a clear job offer to work and also added that there would be;

- '*Fewer lower-skilled migrants and overall numbers will come down*'
- An increase in the Immigration Health Surcharge (IHS) (there is no set number in the manifesto, but in oral statements an increase from the current GBP 400 to GBP 625 per person per year was suggested)
- Priority given to those who '*have a good grasp of English, have been law-abiding citizens in their own countries and have good education and qualifications*'
- A commitment to '*keep track of who is coming in and out of [the UK]*'

Preparing for the impact of a new immigration system from 2021

We await the specifics of the new Government's immigration plans, which will be critical for businesses to sensibly plan ahead. There are however, a few likely outcomes to plan around;

- Limited time for businesses to plan for the changes, and at least to some extent, a disruptive implementation from January 2021
- A more straightforward application process both for sponsors and applicants, with multiple options to expedite processing times for premium fees
- An increase to the volume of immigration applications requiring support - new arrivals from the EU from 2021 will need work visas following the same process as new arrivals from outside the EU
- More options for 'self-sponsored' visas, e.g. the Post-Study Work and temporary work categories. Employers will need to determine benefits of encouraging staff to apply for a self-sponsored visa as opposed to an employer sponsored one.
- More options for 'low-skilled' visas, although limitations on the length of the visa and overall cost may frustrate their use by employers
- Potentially most significantly, a considerable increase in the overall cost to employers of supporting immigration applications. The current costs associated with a Tier 2 visa are at a record high (GBP 8,419 for a five year visa, excluding dependents), and there is no sign these will decrease under the new system. Indeed the only cost related proposal in the Conservative party campaign is the pledge to increase the Immigration Health Surcharge. If all other costs remained the same, the cost of a five year Tier 2 visa will increase to GBP 9,544. Considering that employers will now likely need to support a greater number of applications, it is inevitable that the cost of organizations' immigration programmes will rise.

Expectations as to next steps

Continued immigration announcements are likely as the new parliament forms and the government starts to pursue its wider legislative agenda. Already there is talk of a reorganization of government departments, with immigration rumored to be moved to a new Department for Borders and Immigration.

- January 2020: The MAC is due to report back to the Government on its consultation covering salary thresholds and how the UK could adopt an Australian style points-based system
- 31 January 2020: The UK is expected to leave the EU
- March 2020: Announcements from the government are expected giving a greater level of detail is expected on the new system, to take effect from 2021. Possible interim changes to Tier 2 will take effect from early April.
- 31 December 2020: Assuming the current Withdrawal Agreement is ratified and no extension is agreed this will mark the end of the transition period.
- 1 January 2021: The expected implementation date for the UK's Future Skills Based Immigration System

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