

Addendum: Update - New Changes on Settlement rights

Please note that the government has now published (29th Feb 2012) new documents on settlement rights of non-EEA migrants under Tier 2 PBS, effectively introducing a guest worker scheme for Tier 2 migrants earning less than £35,000 pa. Further, the Overseas Domestic Worker scheme will be severely modified; the government will also restrict some rights of migrants under Tier 5, and introduce a new visitor category ('permitted paid engagement') which will operate outside the PBS. A full Statement of Changes will follow in mid-March. If agreed by Westminster Parliament, these changes will come into effect on 6 April 2012.

Migrants under Tier 2 seeking settlement will be required to satisfy one of the following conditions:

- Minimum income of £35,000 or the going rate in the relevant UKBA Code of Practice, whichever is higher (the £35,000 threshold will be held in place until 2018 in order to provide some predictability and the 2018 threshold will be announced in 2013)
- Be employed in a shortage occupation (or occupation that was on the shortage list when first sponsored)
- Hold a designated PhD-level job or
- Be a minister of Religion

Eligibility for settlement remains at after 5 years, but the structure of the Tier 2 visa will be changed: successful application will lead to a grant of 3 years leave, followed by a further 3 years leave on extension (those entering after 6 April 2011 will be permitted to extend their leave to up to six years); Re-entry under Tier 2 will be possible after an absence from the UK of a year if the person does not qualify for settlement.

The new settlement rules for Tier 2 workers will apply to those who entered the Points Based System after 6 April 2011 and will kick in for those seeking settlement from 6 April 2016.

The Statement of Intent also states that there may be changes ahead to the language requirements for settlement, specifically the testing regime.

Overseas Domestic Workers will from 6 April 2012 only be permitted to accompany visitors or diplomats. Those accompanying a visitor will have maximum stay of six months, will be permitted to work during that time, will not be allowed to change employer, and there will be additional pre-entry checks in future. Those domestic workers accompanying diplomats will have a maximum stay of five years (or the length of the diplomatic posting, whichever is shorter), will not be allowed to change employer, and will not qualify for settlement but will be able to sponsor dependents.

The new visitor category will be a short term visit route of 1 month duration and apply to the following activities:

- visiting to give a lecture, examining students, participating in or chairing selection panels
- overseas designated air-pilot examiners assessing UK pilots to ensure they meet the national air regulatory requirements of those countries
- providing advocacy in a particular area of law as a qualified lawyer in a court or tribunal hearing, arbitration or other form of alternative dispute resolution in the UK
- professional artists, entertainers or sports-persons carrying out an activity relating to their main profession e.g. artists exhibiting and selling their works; authors doing book signings; entertainers giving one off or a short series of performances and sports-persons providing guest commentary in their field of sport.

More info:

"Statement of Intent: Changes to Tier 1, Tier 2 and Tier 5 of the Points Based System; Overseas domestic workers, and visitors" (Feb 2012), <http://www.homeoffice.gov.uk/publications/immigration/employment-related-settlement/tiers125-pbs-overseas-soi?view=Binary>.

"Consultation on Employment-related settlement, Tier 5 and Overseas Domestic Workers - Summary of the Findings, <http://www.homeoffice.gov.uk/publications/immigration/employment-related-settlement/employment-t5-overseas-responses?view=Binary>.