

## **Review of Tier 2 Codes of Practice and updating the Tier 2 NQF6+ Occupation List**

### **Introduction**

- On 27 April 2012 the Minister for Immigration wrote to the Migration Advisory Committee (MAC) asking that the MAC update the list of occupations that qualify for Tier 2 of the Points Based System (PBS) and undertake a review of the codes of practice used under Tier 2.
- This Call for Evidence is being issued to gather views and evidence from corporate partners (all parties with an interest in the MAC's commission, both private and public sector employers, trade unions, representative bodies and private individuals) to help the MAC respond to the Government's questions
- A copy of the call for evidence document is available on the MAC's website at: <http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/>
- They will be holding information sessions and sector-specific meetings across the UK. For more information please refer to the evidence document above.
- They are looking to meet individual partners or groups with an interest in the issues being considered. Please contact the MAC secretariat if you would like to meet, or can offer to host an event at which the MAC could engage with a number of partners.
- The MAC would also be interested to hear about any upcoming meetings, conferences or forums which would provide good opportunities to engage with wider groups.
- **The Government has asked that the MAC provide their advice by 30 September 2012.** In order to have sufficient time to consider the evidence, responses must be received by **27 July 2012.**

### **Policy Context**

- Tier 2 is the focus of this call for evidence. It applies to two categories of skilled workers:
  - Those coming to fill jobs that have been advertised under the Resident Labour Market Test (RLMT). It enables an employer to bring in a worker from outside the EEA once they have shown that there is no suitably qualified worker from within the UK or the EEA available to fill a specific skilled vacancy. If an advertised vacancy does not produce a suitable candidate for the job advertised through Jobcentre Plus and at least one other medium for at least 4 weeks, the employer is able to sponsor a migrant to fill the position.
  - Those coming to take jobs on the Government's shortage occupation list

- Since 6 April 2011, Tier 2 (General) has been subject to an annual limit of 20,700 places for main out-of-country applicants. In 2011/12 the Tier 2 limit was undersubscribed by 52%.
- Following analysis from the MAC in early 2012, the limit has been kept at the same level of 20,700 in 2012/13. It will also be kept at the same level in 2013/14.
- In April 2011, the skill requirement was increased from NQF3+ to NQF4 in order to make the route more selective. For out-of-country RLMT and intra-country transfer applications, the skill level will be raised to NQF6+.
- From 14 June 2012, there will be relaxations in the operation of the RLMT:
  - Those jobs paid more than £70,000 and specified PhD-level occupations will no longer have to be advertised in Jobcentre Plus
  - For vacancies at PhD-level, sponsors may select the best candidate, regardless of whether they are a resident worker.
  - For PhD-level jobs, the period for which the RLMT is deemed to have been satisfied will be extended from 6 months to 12 months.
- In April 2012, the Tier 1 Post study Work Route (PSWR), which allowed non-EEA migrant students 2 years to seek employment in the UK after their graduation, was closed. Non-EEA migrant students graduating from a UK university with a recognised degree, post-graduate certificate of education, or professional graduate diploma in education are able to switch from Tier 4 into Tier 2, subject to meeting the relevant requirements. They need a job offer, but the employer is not required to demonstrate that the RLMT has been met, nor will they be subject to the annual limit on Tier 2 (General). The job offer must still be in an occupation skilled to the requisite level, or a job on the shortage occupation list.

### **Occupations skilled to NQF6+ using SOC 2010**

- Provisional threshold values for SOC 2010 occupations skilled to NQF6+ have been calculated as follows:
  - Pay: Median hourly pay for full-time employees within an occupation were required to be £15.44 per hour or more
  - Formal qualification: 37% of full-time employees within an occupation were required to be qualified to NQF6+.
  - SOC skill level: An occupation was required to be classified at level 4 in the SOC 2010 hierarchy
- To find out which code a particular job title is classified under in SOC 2010, please refer to '*SOC 2010 Volume 2 The Structure and Index*' which is available on the Office of National Statistics website: <http://www.ons.gov.uk/ons/guide-method/classifications/current-standard-classifications/soc2010/index.html>

<b>Qn.</b>	<b>Call for evidence question</b>	<b>Context and question rationale explained</b>
1	Could the codes be simplified or streamlined and, if so, how?	<p><b>The Codes of Practice</b></p> <ul style="list-style-type: none"> <li>The MAC needs feedback from you based on your experience of using the current codes and how they might be better presented in the future. The current codes of practice are available on the UK Border Agency website  <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pointsbasedsystem/gtaduate-cop/">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pointsbasedsystem/gtaduate-cop/</a></li> </ul>
2	How often do the codes of practice need to be updated?	<ul style="list-style-type: none"> <li>The MAC was asked to 'advise on the design of the Codes of Practice Framework: <ul style="list-style-type: none"> <li>-How the codes of practice should be divided between sectors and occupations</li> <li>- whether the current codes should be simplified or streamlined</li> <li>- whether and how the consistency of approach across different sectors and occupations could be improved</li> <li>- how often and in what manner the codes of practice should be updated'</li> </ul> </li> </ul>
3	With reference to the 25 <sup>th</sup> and 50 <sup>th</sup> percentile earnings listed (page 17 of <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/31-call-for-evidence-by-the-mac/call-for-evidence?view=Binary">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/31-call-for-evidence-by-the-mac/call-for-evidence?view=Binary</a> ) what is the minimum appropriate pay for occupations on the NQF6+ list and/or for specific job titles within these occupations? Please specify the relevant 4 digit SOC 2010 code when submitting evidence.	<p><b>Appropriate pay thresholds</b></p> <ul style="list-style-type: none"> <li>The UK Border Agency takes into account the following components of Tier 2 (General) and intra-company transfer applicants' pay to assess whether they satisfy the minimum pay threshold <ul style="list-style-type: none"> <li>- gross annual, monthly or weekly pay</li> <li>- guaranteed bonuses</li> <li>- allowances such as London weighting or accommodation, paid to a settled worker in similar circumstances</li> </ul> </li> <li>More information relating to allowable pay can be found on the website <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance</a></li> <li>You are invited to provide evidence for pay in occupations and job titles within these occupations in relation to the questions above. A provisional list of SOC 2010 occupations skilled to NQF5+ can be accessed on page 17 at <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/31-call-for-evidence-by-the-mac/call-for-evidence?view=Binary">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/31-call-for-evidence-by-the-mac/call-for-evidence?view=Binary</a>.</li> <li>It is important that evidence provided is explicitly linked to a SOC 2010 code (and potentially a job title within a SOC 2010 code) in order for it to be assessed alongside other sources, and also that evidence is consistent with the definitions supplied.</li> <li>The Commission asked the MAC to 'advise on the minimum appropriate pay for occupations and (as appropriate) job titles, taking account the minimum salary threshold for the Tier 2 route and identifying, where necessary, separate occupation specific minimum salaries for both new entrants and experienced employees'</li> </ul>

4	<p>Within the occupations on the NQF6+ list, are people typically employed at a lower salary because they are less experienced? Are you awake of, or do you operate, specific schemes for recruitment and development of less experienced employees? Please provide details.</p>	<p><b>Appropriate pay thresholds for less experienced employees</b></p> <ul style="list-style-type: none"> <li>Some employers recruit promising individuals who lack to the experience to be paid the 'appropriate rate' for a job, but are important to the future of UK businesses.</li> <li>MAC are considering whether for such workers, pay thresholds should be set at the 10<sup>th</sup> percentile of the pay distribution for 4=digit SOC codes for full-time employees using data from the provisional ASHE 2011 (Pg 17 of <a href="http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/31-call-for-evidence-by-the-mac/call-for-evidence?view=Binary">http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/31-call-for-evidence-by-the-mac/call-for-evidence?view=Binary</a>)</li> </ul>
5	<p>What are typical characteristics, or range of characteristics, of these less experienced employees? (Eg. Qualifications held, years since graduation, etc.)</p>	
6	<p>With reference to the potential 10<sup>th</sup> percentile of the pay distribution for occupations listed in the website above, what are the appropriate minimum pay threshold for low experience workers to prevent undercutting for occupations on the NCF6+ list and/or for specific job titles within these occupations? Please specify the 4 digit SOC 2010 code when submitting evidence, and also explain how you identify 'low experience' workers.</p>	
7	<p>What has been the impact on you of the requirements in the current codes of practice with regard to advertising locations on recruitment?</p> <p>If you are an employer, has adhering to the requirements led to you recruiting from the resident workforce? If not, why?</p>	<p><b>Advertising requirements</b></p> <ul style="list-style-type: none"> <li>The MAC has been asked to review this requirement and will welcome information on the impact the advertising requirement has had on the recruitment process. The MAC are keen to hear the experience of individual workers and will welcome responses from individuals and trade unions.</li> <li>The current list of approved media locations for advertising is prescription. One option is to continue with this approach and update the advertising locations specified</li> <li>An alternative option would be to take a criteria-based approach, and specify the characteristics of locations that would be acceptable without listing actual newspapers, publications or websites. The MAC will welcome the views of partners on what criteria would be valid if such an approach was adopted in relation to some or all job titles and occupations in the codes of practice</li> </ul>
8	<p>Where would you expect to see advertisements for vacancies in your occupation?</p>	
9	<p>What factors do, or should, employers take into account when considering which advertising locations to use for recruitment jobs which could be filled by non-EEA migrants?</p>	