

Business Immigration – Closure of Tier 1 (General) Visa Route

The government recently announced that the Tier 1 (General) visa route for highly skilled workers will be closed from **31 March 2011**. This follows the earlier introduction of an interim quota limiting to 600 the number of Tier 1 (General) visas issued each month in response to applications submitted outside the UK.

What is a Tier 1 (General) visa?

The Tier 1 (General) visa route is intended for highly skilled workers. Applicants must obtain a minimum point score to qualify. Points are awarded for an applicant's previous earnings, qualifications, age and previous UK experience. Applicants must also show that they are proficient in English and meet financial criteria designed to show that they have sufficient resources to support themselves in the UK without recourse to public funds.

An individual holding a Tier 1 (General) visa does not need to be sponsored by an employer to work in a specific job to enter the UK and can change jobs in the UK without having to notify the UK Border Agency (UKBA) or apply for a new visa.

Tier 1 from April 2011 onwards

In addition to abolishing the Tier 1 (General) visa category from **31 March 2011**, the government plans to make changes to the other types of visa available within the Tier 1 category although it has not yet published details of these proposed changes. However, the government has indicated that the Tier 1 (Entrepreneur) route will be changed to allow for greater flexibility and the Tier 1 (Investor) route will be altered to allow an accelerated route to settlement, depending on the level of investment.

A new Tier 1 "Exceptional Talent" visa category will be introduced for migrants who have "won international recognition in scientific and cultural fields". Only 1,000 visas of this type of visa will be issued each year.

Employers who have previously employed highly skilled migrant workers holding Tier 1 (General) visas – and many employers have chosen this option to avoid the requirements associated with applying to become and being a licensed sponsor – should be aware that, in the future, the majority of workers of this type will not be eligible for a Tier 1 visa.

Instead, an employer wanting to employ a highly skilled worker from outside the EEA or Switzerland may have no option but to sponsor that worker under the Tier 2 visa category to undertake a specific role within the employer's organisation. Such employers will have to possess a sponsorship licence from the UKBA.

Applying for a Tier 1 (General) visa

Under the current interim visa quota system, only 600 Tier 1 (General) visas are being issued by the UKBA each month in response to “out of country” applications. These visas are allocated on a first-come, first-served basis from the first day of the month onwards. When the month’s quota has been issued, any remaining unprocessed applications are rolled over to the next month for consideration when the next quota of Tier 1 (General) visas are released.

Applications to “switch” from another appropriate immigration category, applications to extend existing Tier 1 (General) visas and applications from dependants are not included in the monthly quota.

Since the interim quota was introduced, each month’s allocation has been exhausted increasingly early in the month, most recently with December’s quota being allocated, we understand, on 1 December. In light of this, anyone who intends to apply for a Tier 1 (General) visa should be aware that it is possible that very few or even no new out of country Tier 1 (General) visa applications will be in time to secure one of the remaining visas of this type, due to the backlog of applications that have already been submitted.

Going forward

- To maximise the chances of obtaining one of the remaining 1,800 out of country Tier 1 (General) visas (for January, February or March), all such applications should be submitted as soon as possible. It is probable that there will be a spike in Tier 1 (General) visa applications before permanent closure of this category from **31 March 2011**;
- Those wishing to switch into the Tier 1 (General) visa category or to extend an existing Tier 1 (General) visa should do so as soon as possible;
- Employers should take this opportunity to review their staffing needs and consider whether they are likely to want to employ skilled migrant workers from outside the EEA or Switzerland going forward and, if so, consider what steps they should be taking now and in the future to minimise potential disruption in staffing arising from the government’s ongoing changes to immigration policy;
- Those employers who want to have the option to sponsor non-EEA or Swiss nationals under the Tier 2 (Intra Company Transfer) or Tier 2 (General) categories and who have not already obtained or applied for a sponsorship licence from the UKBA, should consider doing so now, not least because of the time it can take to prepare and process sponsorship licence applications.

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