



## Immigration Bill 2015 and MAC Review of Tier 2: The proposals and business impact

Immigration Law conference  
3 February, 2016

## Agenda

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- MAC Report: Setting the scene
- MAC Report: Recommendations
- MAC Report: Planning for the future
- Immigration Bill 2015

# Setting the scene

## Background to the 2016 Report

### June - July 2015 - Review of salary thresholds

- Advice published on 13 August 2015
- Recommended that Government wait for completion of the wider Review of Tier 2

### July - September 2015 - Wider review of Tier 2

Matters considered by the MAC:

- Restricting Tier 2 to genuine skills shortages / highly specialist experts
- Limiting the time an occupation can be on the shortage list
- A skills levy
- Restricting work rights for Tier 2 dependants
- Extending Health Levy to ICTs
- Increasing minimum salaries in Tier 2 (repeating earlier consultation)
- Review of ICT category overall given increase in volume

# MAC Report: Recommendations

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## Wider review of Tier 2: Key findings

- Non EU migration only forms a small part of overall net migration
- Focus towards an objective and measurable criteria to limit migration - i.e. increasing salary thresholds
- Tier 2 (excluding public sector) migrants generally receive higher salaries
- Regional salary variations not recommended
- A skills levy would incentivise employers to invest in skills where this is a viable alternative and would raise funds to re-invest into training of the local workforce
- The ICT route has widely been used by IT companies to send migrants to carry out work for third-party organisations, contrary to original intentions

## Proposed changes across Tier 2

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- **Not restrict Tier 2 to shortage occupation**
  - No sunset clause on shortage list
- **Raise minimum salary thresholds**
  - £23,000 for new entrants
  - £30,000 for experienced workers
  - No SOC salary changes
- **New Immigration Skills Charge**
  - MAC recommends £1,000 per year
  - Tier 2 (ICT) 'Graduate Trainee' and 'Skills Transfer' exempt
- **Third party contracts**
  - Separate ICT category to be created
  - Minimum salary to be set at £41,500
  - RLMT and annual cap may also apply
- **No change to dependant work rights**

## Tier 2 (General): Proposed changes

### In-country switching

All in-country switchers from other routes, including Tier 4 students, to be subject to the RLMT and RCoS process

Annual limit to be expanded to include in-country switchers as well as overseas applicants

### Graduates

Those applying for graduate programmes to be prioritised in RCoS process applications to be considered as if salary is £7,000 higher

## Tier 2 (ICT): Proposed changes

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### **Previous company experience:**

Increased from 12 month to 24 months

### **Immigration Health Surcharge**

Should be extended to all (ICT) sub-categories and family members where visa is granted for more than six months

### **Additional information to be entered on the CoS**

Companies to explain on the Certificate of Sponsorship why an ICT is required along with the skills the person has

### **New immigration category to be created**

Will apply to employees transferred to the UK to work on a third-party contract. Minimum salary to be set at £41,500. RLMT and annual cap may also apply

### **Allowances**

HMRC should consider whether the payment of non-salary allowances enables companies to undercut local salaries

# Extending RLMT and annual limit: Impact on graduate recruitment



- 5,687 Tier 4 graduates switched in country to Tier 2 (General)
- If the proposed changes are adopted, an RMLT will be required
- Large graduate employers who operate a 'milkround' recruitment process may not be affected
- Other Employers – additional burden of RLMT and timing considerations

# Impact on workforce planning



- Minimum company experience requirement will affect choice of assignees, (including graduates) and impact those with global roles and newer businesses.
- Annual quota – uncertainty around new limit and increased use of Tier 2 (General).
- Cost impact – salaries, skills levy and IHS.

# Third party contracting



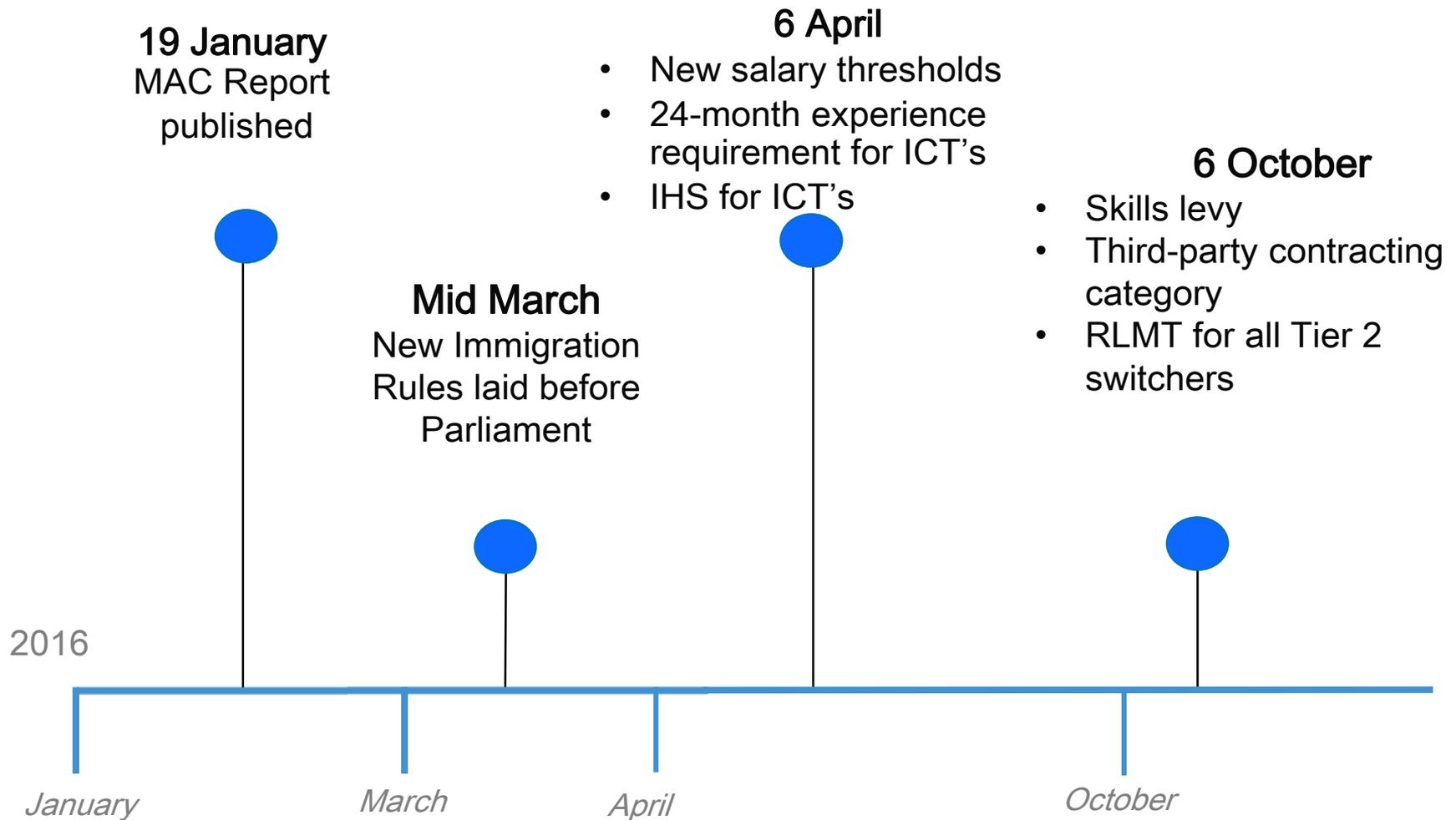
- Creation of new category
- Salary increases
- Impact of IHS and ICS
- Possible application to other sectors

# Example cost impact

Typical cost of a three year Tier 2 visa for a family of three	Tier 2 (General)*		Tier 2 (ICT)*	
	Current	Proposed	Current	Proposed
Certificate of Sponsorship	£199	£199	£199	£199
Immigration Health Surcharge (£200 per person per year)	£1,800	£1,800	N/A	£1,800
Visa application fee	£1,692 (£564 per person)	£1,725 (£575 per person)	£1,692 (£564 per person)	£1,725 (£575 per person)
Immigration Skills Charge (£1,000 per year)	N/A	£3,000	N/A	£3,000
<b>TOTAL:</b>	<b>£3,691</b>	<b>£6,724</b>	<b>£1,891</b>	<b>£6,725</b>

\*Professional fee, TB screening fee, and optional fast-track fees are not included

# The likely timeline?



Assumed timetable based on past experience

# Immigration Bill 2015

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## The Immigration Bill 2015

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National roll out of right to rent

English Language Requirements for  
Public Sector jobs

Restrictions on access to services for  
illegal migrants

Immigration Skills Charge

# Right to Rent Scheme

Initially introduced as a pilot scheme by the Immigration Act 2014.  
Rolled out on 1 February 2016

Landlords will have a duty to check the immigration status of tenants and power to evict tenant without appropriate immigration status  
(Section 14)

Renting to illegal migrants will carry a prison sentence of up to five years  
(Section 13)

# Right to rent checks in practice

Right to rent checks must be undertaken in the 28 days before the tenancy agreement is entered into

Follow-up checks in 12 months or as visa is due to expire, whichever is later

What documents will satisfy the requirement?

Visa

BRP card

EEA Passport or  
EEA Residence  
card, or

Other Home  
Office document  
confirming the  
right to stay in  
the UK

## English language requirements for public sector jobs (Section 47)

- All customer facing employees must have fluent English (equivalent to a C or above at GCSE, i.e. level B2).
- Skills tested based on guidance in Code of Practice – draft Code available.

## Access to services and illegal working

Section 8 – The bill creates a new criminal offence for those working in the UK without an appropriate immigration status (imprisonment of up to 51 weeks and/or fine)

Section 18 – Those driving a vehicle in the UK without an appropriate immigration status will be committing an offence (imprisonment of up to 51 weeks and/or fine)

Section 19 – Banks to undertake regular checks of the immigration status of their current account holders

## Other significant changes

Individual company officers may be imprisoned for up to five years for employing illegal workers (Section 9)

Powers for Immigration Officers to search and seize nationality documentation, passports, etc. (Section 20)

Powers for the police and immigration officers to stop and search suspected illegal migrants, and seize driving licences and vehicles (Sections 17-18)

Powers for the Home Office to cancel 3C leave if the applicant has failed to abide by the conditions of their current visa or has used deception in an application (Section 33)

Human rights appeals to be brought outside the UK except cases where it would cause “serious and irreversible harm” (Section 34)

The Bill proposes to introduce a new Director of Labour Market Enforcement (Section 1)

Questions?

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A close-up photograph of a silver fountain pen with a black grip section, resting on a light blue sticky note. The pen is positioned diagonally, and its nib is just finishing the word 'THANK YOU!' written in black ink. The background is a blurred brown surface, possibly a corkboard. The text 'THANK YOU!' is underlined with a thick black line.

THANK YOU!