



The cap on economic migration - will it have much effect?

Summary

1. Generous transition arrangements and effectively unlimited Intra Company Transfers (ICTs) should meet most employer needs and are certainly not onerous. Future numbers will depend on the extent to which employers use the ICT route. The present tax advantages of doing so must be removed so as to level the playing field for British workers.
2. The effect of these measures on net migration will be limited. Breaking the semi-automatic links with settlement and much more effective enforcement will be essential if the objective of contributing to a reduction in net migration is to be achieved.

Introduction

3. A cap on economic migration comes into force on 6 April for 2011/12. Its level, which will be reviewed annually, has been set at 21,700[1] but applied only to certain routes accounting for about a quarter of those currently being admitted under Tiers 1 and 2 of the Points Based System[2].

The changes

4. The raw number for the cap is deceptive because some routes have been effectively closed while others have been excluded from the cap. Dependants in all routes are also excluded from the cap.
5. The routes for "self starters" - Tier 1 - have been significantly reduced. Tier 1 (general) has been limited to 1,000 visas for the "exceptionally talented". Meanwhile, efforts will be made to expand the investor and entrepreneur categories; only 400 such visas were granted in 2010.
6. Tier 1 (Post Study Route) which allowed foreign graduates of British universities to stay on for two years in search of employment has been reformed. After April 2012 foreign graduates will be allowed only six months to seek work; if they find a skilled graduate job with a licenced sponsor they can transfer to Tier 2 without a Resident Labour Market Test and, importantly, outside the cap for Tier 2. However, the Home Secretary's statement in Parliament referred to a possible temporary limit if the numbers increased "significantly and unexpectedly".
7. By contrast, those routes which operate at employers' behest have been expanded. Tier 2 (General) has been capped at 20,700 but this is substantially higher than the approximately 10,000 admitted in 2009 and 2010. This route, which includes the Shortage Occupation category, has now been confined to "graduate" level jobs (NQF 4). This cap should not bite in the short term but it could act as a long stop if immigration pressures should intensify in the future.
8. There is to be no limit at all on Intra Company Transfers (ICTs) where the salary and allowances exceed £40,000 p.a. There is also to be a new route for ICTs earning over £24,000; they will only be allowed to come for up to 12 months in 24 and will probably not show up as immigrants as they could well be here for

less than 12 months.

The effect

9. The effect of these changes is shown in the two tables below. The first one addresses new out of country grants for main applicants for PBS visas and their predecessors.[3]

	2007	2008	2009	2010	Cap
Tier 1 (General)	10900	15100	14300	10200	1000
Tier 2 (General) [4]	26200	19300	8500	9900	20700
Tier 1 (Post Study Route) [5]	1300	2500	4300	5500	excluded
Tier 2 (ICT - £24,000) [6]	19,000	17900	11000	14600	excluded
Tier 2 (ICT - £40,000) [7]	19,000	17800	11000	14600	excluded
Other Work Permits [8]	-	-	5000	200	
TOTAL Work Permits	76400	72600	54100	54800	

A further addition of economic migrants occurs when the applicant extends their leave to remain in the UK by switching from study to a work route. The majority of Tier 1 Post-Study grants are issued this way [9].

	2007	2008	2009	2010	Cap
Tier 1(Post Study Route)	13700	37900	34200	34000	excluded

10. The visa routes that are capped at 21,700 are the equivalent of the 20,100 issued in 2010 as shown in lines 1 and 2 above. How much they are below 2009 levels depends on the breakdown of the 5,000 old style work permits issued in that year between ICTs and ordinary work permits; a 20% reduction would be achieved if they were all ordinary work permits. These capped routes account for only about a quarter of the economic migrants admitted into Tiers 1 and 2 in recent years.

11. It will be apparent that any future reduction in numbers depends on the extent to which employers go down the ICT route. Current taxation rules encourage the use of ICT staff over British workers on cost grounds [10]. There is also the question of the EU/ India Free Trade Agreement which may permit up to 20,000 Indian "service workers" to enter every year for up to 12 months under Tier 5. Technically, they will not count as immigrants as they will be here for less than a year but their effect will be similar.

Settlement

12. In terms of net migration, what matters is not who comes but who stays. Since April 2010 the ICT route has been limited to five years and no longer leads to settlement.

13. This change has had the effect of reducing the number of economic migrants in Tiers 1 and 2 on routes that lead to settlement by about 22,000 as shown below [11].

Economic visas	2009	2010
Leading to settlement [12]	88300	67000
Temporary	0	21800
TOTAL [13]	88300	88800

14. The government have said that they will bring forward further proposals to break the previously almost automatic link between economic migration and settlement.

Administration

15. The temporary limit on economic migration, introduced in July 2010 to prevent a rush of applications, caused a great deal of confusion and some clear anomalies. For example, some Indian IT firms were allocated several thousand work permits while Oxford University had an allocation of about a dozen. Those difficulties should now be a thing of the past.

16. A related and very important change is that employers will no longer be able to assume a particular number of permits under Tier 2 based on the previous year. They will have to apply for them as they are needed. Grants will be made on a monthly basis with special consideration for those with a PhD.

Extensions

17. As part of the transition arrangements, renewals of existing work permits and will not fall under the cap. That clearly cannot continue as the numbers are very large. For 2009 and 2010 combined there were nearly 100,000 grants of extension of leave to remain for tiers 1 and 2 [14].

Enforcement

18. A recent NAO[15] report pointed to serious weaknesses in enforcement. There are about 180,000 migrants whose permission to remain has expired since December 2008 but the UKBA is not able to identify which of them have overstayed (still less where they are now). The Agency only visited 15% of the 22,000 sponsoring employers before licensing them and is currently visiting only 20% of new sponsor applicants. Effective enforcement, including renewals, will significantly affect the outcome for net migration.

Conclusion

19. It is clearly essential that unduly tight restrictions on economic migration should not impede the economic recovery on which so much else depends. This appears unlikely due to the generous limit and partial nature of the cap; it doesn't cover ICTs, switching in country into work or extensions of existing work permits.

20. Work permit numbers now depend on the extent to which employers turn to the ICT route. At present the taxation arrangements give a strong incentive for employers to choose ICTs over British workers. An ICT on £40,000 a year costs an employer about 10% less, he is also tied to the employer by his work permit.

21. The "short" ICT route of up to 12 months at £24,000 (including allowances) is a further incentive to employ immigrants (even though they will not appear in the official immigration figures). If this route is to remain uncapped there must, at the very least, be a level playing field.

22. It is important to ensure that migrant labour is not so easily available as to undermine employers' incentive to train British workers. As the economy eventually recovers, the government will have to hold their nerve if the wider objective of reducing net migration is to be achieved.

Updated 25 May, 2011

NOTES

- 1 <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110307/debtext/110307-0001.htm#11030711000417>
- 2 This paper is an update to the paper issued in April 2011. The tables are revised to give greater clarity.
- 3 Includes the current Points Based System routes and their precursors.
- 4 2007 and 2008 figures consist of ordinary work permits. 2009 and 2010 figures are PBS Tier 2 (General)
- 5 Includes the following schemes: Fresh Talent – Working in Scotland, IGS, SEGS and Tier 1 (Post Study)
- 6 Migration Advisory Committee November 2010“Limits on Migration” p96 fig 3.21
- 7 Ibid
- 8 Work Permits issued, with an unknown split in numbers between ordinary work permits (the predecessors to Tier 2 (General) and the work permit Intra-company transfer (the predecessor to Tier (ICT)).
- 9 In addition to Tier 1 post study grants some people switched directly from study to work permits. In 2010 785 people switched from study to PBS Tier 2(General).
- 10 Migration Watch Briefing Paper 3.15 <http://www.migrationwatch.org/briefingPaper/document/224>
- 11 7,400 ICT visas issued in Q1 2010 lead to settlement. 21,800 ICTs issued in remainder of 2010.
- 12 In addition the following visas lead to settlement: Tier 1 Investors, Tier 1 Entrepreneurs, Tier 2 Sportsperson and Tier 2 Ministers of Religion categories. They gave a combined total of around 1000 per year for 2009 and 2010.
- 13 In addition to PBS Tier 1 and Tier 2 there is the Tier 5 temporary work route and non-PBS routes that lead to settlement e.g. “Domestic Workers in Private Households”. Economic migration from all routes in 2010 was 143,000 of which 58,300 was temporary and 84,700 lead to settlement.
- 14 May include a small number extending their leave to remain by switching into work categories other than those excluded from this figure (excluded categories are Tier 1 Post Study or Tier 2 (General)).
- 15 National Audit Office, March 2011 “Immigration the Points Based System: Work Routes”