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# **The future of non-HEI Tier 5 (Temporary Worker GAE) schemes & the current route**

31 January 2019

# Session outline

This session will cover:

- The future of Tier 5
- The current non-HEI Tier 5 GAE route
- Q&A

*These slides provide a general overview only and are not designed to provide a comprehensive review of the law.*

# The future of Tier 5

- Proposals set out in December 2018 in the immigration white paper.
- Due to be implemented in January 2021 (although expected that some routes will open earlier such as the new 'start-up' route).
- Will Tier 5 in its current form survive?

# The future of Tier 5

The new skilled worker route is more relaxed than Tier 2:

- no RLMT;
- RQF level 3-5 (currently roles must be RQF level 6 for Tier 2 sponsorship);
- no caps;
- 'new-entrant' remuneration levels to be retained (covers those switching from Tier 4);
- graduates able to enter the route up to 24 months from graduation
- sponsorship still needed;
- leads to settlement, dependants can join.

# The future of Tier 5

The new 'short-term temporary work' route:

- only available to nationals of specified countries (i.e. low risk or where the UK has negotiated an agreement);
- no sponsorship required;
- any skill level;
- up to 12 months;
- can switch in-country;

# The future of Tier 5

- will not lead to settlement;
- no dependants;
- cooling-off period to apply;
- extremely limited information;
- specific reference is given to '*participation in research project*' (page 52 of the white paper).

# The future of Tier 5

But...

P 56 WP states:

*'We remain open to talented scientists and researchers who make a significant contribution to international collaborations. We will ensure that our immigration system continues to cater for such people and we will offer opportunities for people to share skills and knowledge through approved work experience and professional training schemes.'*

# The future of Tier 5

*'We will continue to offer these opportunities through the existing routes, which cater for a wide group of temporary professional workers. There are currently five main sub-categories for temporary professional workers. We will make improvements to existing routes where necessary, taking account of feedback from specific sectors, particularly around sponsorship arrangements.'*



# The future of Tier 5

And...

P 57

*'We will also look to consolidate Government Authorised Exchange schemes and rebrand where necessary to promote the wide-ranging opportunities available. The new skilled workers route will be the sole route for individuals seeking permanent skilled employment in the UK.'*

# The future of Tier 5

And...

P 58

*'Government Authorised Exchange – for people coming to the UK through approved schemes to share knowledge, experience and best practice or to undertake work-based training or research in specific fields for up to two years.'*

Some of the Tier 5 routes may remain as they are but with more options opening up.

# The current Tier 5 GAE route

The various currently available schemes that offer sponsorship under Tier 5 Government Authorised Exchange are contained in Appendix N of the Immigration Rules:

<https://www.gov.uk/guidance/immigration-rules/immigration-rules-appendix-n-authorized-exchange-schemes>

# The current Tier 5 GAE route

The purpose of the route, as set out in the Immigration Rules, is key:

*‘This route is for certain types of temporary worker whose entry helps to satisfy **cultural, charitable, religious** or **international** objectives including **volunteering** and **job shadowing**, and for meeting seasonal employment needs in the edible horticultural sector.’*

# The current Tier 5 GAE route

The requirements and conditions are set out in paragraphs 245ZN – 245ZR of the Immigration Rules:

The applicant must:

- not fall refusal under the general grounds of refusal;
- meet the requirements of the sponsor's scheme and have a valid CoS;
- genuinely intend, and be capable of undertaking, the role on the CoS;
- meet the maintenance requirement;
- be supported by parents/guardian if under 18.

# The current Tier 5 GAE route

Those switching into the scheme from Tier 4 may do so only if:

- they are, or were, sponsored by a university (or other education provider referred to in the Rules);
- they have lawfully obtained a UK recognised bachelor or postgraduate degree during the last grant of leave; and

# The current Tier 5 GAE route

- if they are being sponsored to:
  - undertake a period of postgraduate professional training or work experience required to obtain a professional qualification or registration in the same profession, will not be filling a permanent vacancy such that the employer does not intend to employ them in the UK once the training/work experience has ended; or
  - undertake an internship for up to 12 months which directly relates to the qualification, will not be filling a permanent vacancy such that the employer does not intend to employ them in the UK once the training/work experience has ended.

# The current Tier 5 GAE route

No employment except as under CoS or **supplementary employment**:

- must be in either a job on the shortage occupation list in Appendix K of the Immigration Rules or a job in the same sector and at the same level as the work for which the CoS was assigned;
- must be no more than 20 hours per week;
- must be outside of your normal working hours for which your CoS was assigned.



# The current Tier 5 GAE route

What about services as a professional sports person? Although there is no specific prohibition in this route, is it safe to perform such activity? UKVI clarification is being sought generally on this definition.

- A “**Professional Sports person**”, is someone, whether paid or *unpaid*, who:
- is currently providing services as a sports person, playing or coaching in any capacity, at a professional or semi-professional level of sport;
- is currently receiving payment, including payment in kind, for playing or coaching that is covering all, or the majority of, their costs for travelling to, and living in the UK, or who has done so within the previous four years;
- is currently registered to a professional or semi-professional sports team, or who has been so registered within the previous four years. This includes all academy and development team age groups;

# The current Tier 5 GAE route

- *has represented their nation or national team within the previous two years, including all youth and development age groups from under 17's upwards;*
- *has represented their state or regional team within the previous two years, including all youth and development age groups from under 17's upwards;*
- *has an established international reputation in their chosen field of sport;*
- *engages an agent or representative, with the aim of finding opportunities as a sportsperson and/or developing a current or future career as a sportsperson, or has engaged such an agent in the last 12 months;*
- *is providing services as a sportsperson or coach at any level of sport, unless they are doing so as an "Amateur" in a charity event.'*

# Tier 5 Intern Scheme

The Tier 5 Intern Scheme operated by GTI:

*‘Designed for employers, the Tier 5 intern programme is a government approved scheme which allows graduates and undergraduates from countries outside the EEA to gain intern experience working within UK industry and provides organisations with the scope to deploy the brightest and best talent on key initiatives and learn skills they can take back to their home country.’*

# Tier 5 Intern Scheme

Main requirements:

- supernumerary role which must be supervised;
- role must be at least RQF level 3;
- applicant hold or be studying for a degree;
- NMW applies;

# Tier 5 Intern Scheme

- maximum 12 months;
- employers with and without a sponsor licence can use;
- £750 plus VAT to register and £750 plus VAT for each sponsored worker.

# Other Tier 5 GAE schemes

There are currently 60 other schemes including those operated by:

- AIESEC
- Bar Council
- BAE Systems
- British Council
- British National Space Centre
- Cabinet Office
- The Law Society
- Serious Fraud Office
- UK Research and Innovation etc.

# Other Tier 5 GAE schemes

The purpose of the route, as set out in the Immigration Rules, is key to ensuring compliance for both the sponsor and the individual:

*‘This route is for certain types of temporary worker whose entry helps to satisfy **cultural, charitable, religious** or **international** objectives including **volunteering** and **job shadowing**, and for meeting seasonal employment needs in the edible horticultural sector.’*

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# What they say about us...

*'..an exceptionally strong reputation...'*

The Legal 500

*'... a huge amount to develop the law of Tier 4 sponsorship for higher education institutions...'*

Chambers & Partners

*'...a leading adviser on compliance and risk management'*

Chambers & Partners

*'...that extra bit of listening, care and explanation'*

The Legal 500