

POINTING THE WAY? MANAGING UK IMMIGRATION IN DIFFICULT TIMES¹

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The United Kingdom has moved to a new points-based system of managing the temporary and long-term immigration of workers, students and their families. It is designed to ensure that only workers with high-level and/or needed skills are selected and that students are genuine and of benefit to the UK. The government view is that the new system will provide it with the tools necessary to reduce labour immigration during the current economic downturn. The system is not yet fully operational but recent data on skilled immigration show that around 60 per cent of migrants are from the European Economic Area, and thus have the right to enter Britain for work, and that many others have been transferred by the multinational companies that employ them. Thus while the new system represents a definite administrative break with the past, its effects on selection and on overall numbers may be limited.

INTRODUCTION

Economic recession and rising unemployment are likely to focus increased attention in many countries on international labour movement. Governments are already facing calls to curb immigration in order to protect the jobs of indigenous workers and are looking at the policy options open to them. The response of the UK government is that the new points based system (PBS), planned and implemented over the last three years or so, allows it the flexibility it needs to manage the ‘downsizing’ of foreign (non-European Economic Area [EEA]) labour inflows to match declining numbers of skill vacancies. A system devised during a period of strong economic growth is now being tested in very different circumstances. Not surprisingly, the UK’s experience of implementing a new system for managing labour immigration may be expected to attract widespread interest.

An earlier paper in this journal² reviewed the background to the policy, especially in relation to the highly-skilled people deemed essential for the development of the UK economy, including intra-company transferes (ICTs) moving within the internal labour markets of large trans-national corporations (TNCs). The authors described the proposed five tiers of the PBS and identified eight

main, largely administrative, differences between the new system and the existing work permit system. The present paper takes up where the previous one left off. We seek to provide an overview of how the new arrangements have been put in place and are evolving in the current economic context. The structures and processes that are being established clearly incorporate more devolved responsibility for immigration control than hitherto.

Given that the PBS only became operational in 2008, there are as yet no statistical data on its outcomes. Most government effort has been expended in getting the new system up and running; monitoring its impact has taken a back seat. Thus we are at present unable to say how many workers and students have entered via the PBS, what their characteristics are or even what actual statistics will be produced. However, the most recent figures (for 2008) on migration and work permits issued under the old system give us clues as to how the economic downturn has been affecting labour inflows to the UK and how far they can potentially be reduced by PBS decisions. The data also enable some assessment of the areas of employment and economic activity most likely to be affected if there were to be any major limitation on the numbers allowed

to enter under the new system and the implications of such limitations for different stakeholders.

The paper has five sections. The first presents the most recent statistical data on labour migrants entering the UK. The focus here and in much of the rest of the paper is on migrants covered by Tier 2 of the PBS, which deals with the temporary immigration of non-EEA skilled workers. Second, the administrative structures of the PBS and the distribution of powers and responsibilities under the new system are discussed. The third section outlines the current position on each of the five tiers of the system. The fourth elaborates on the key role of one of the new structural elements in the system, the Migration Advisory Committee (MAC). Finally, we discuss some of the issues arising from the paper and suggest aspects to be considered or reviewed in the future as economic conditions change.

TRENDS IN LABOUR IMMIGRATION

In 2007 (data for 2008 are not yet available for all routes of entry) the total number of foreign labour immigrants to the UK under all schemes, including the free movement provisions of the EEA, was 454,000 (Table 1). Only about 40 per cent of these would now come under the jurisdiction of the PBS, from which EEA nationals are excluded. Because the Worker Registration Scheme (WRS) does not include the self-employed, it is likely that its total is an underestimate. The statistics in Table 1 (which exclude dependents) take no account of duration of employment so they will include an unknown number of short-term migrants.

The message is clear: most labour immigration bypasses the PBS.

The second message from the statistics is that the new system is coming into operation in a period of declining foreign labour inflows. This is indicated by quarterly data from the Worker Registration Scheme (WRS) on Eastern European migrants from the eight accession countries joining the EU in 2004 and by work-permit data relating to non-EEA migrants who now fall within the remit of the PBS. As the economic downturn has developed, the trends have been downward. The number of applications approved under the WRS has declined from its peak of 227,875 in 2006 but the fall was especially steep during 2008, from 46,625

Table 1: Total foreign labour immigration by major routes of entry, 2007*

Route of entry	number	per cent
WRS ¹	216,892	47.8
<i>Work Permits</i> ²	87,968	19.4
EU&EFTA ³	43,000	9.5
<i>Working Holidaymakers</i> ⁴	37,845	8.3
<i>HSMP</i> ²	28,090	6.2
SAWS ²	16,971	3.7
Domestic Servants ¹	10,600	2.3
UK Ancestry ¹	7,220	1.6
<i>SBS</i> ²	1,472	0.3
<i>SEGS</i> ¹	2,243	0.5
Au Pairs ¹	765	0.2
<i>Ministers of Religion</i> ¹	860	0.2
Total	453,926	100.0

Sources: ¹ Home Office
² Work Permits (UK)
³ International Passenger Survey
⁴ UK Visas

Notes: * data for January to June 2007 only in italics—now under PBS
WRS—Worker Registration Scheme, WP—Work Permits, WHM—Working Holiday Makers, HSMP—Highly Skilled Migrant Programme, SAWS—Seasonal Agricultural Workers Scheme, SBS—Sectors Based Scheme, SEGS—Science and Engineering Graduates Scheme, EU—European Union, EFTA—European Free Trade Agreement.

in the first quarter to 26,815 in the fourth to finish the year at 156,295. The fall continued to only 21,275 in the first quarter of 2009.

Work permit numbers have also fallen recently (Figure 1).³ Among the categories of applications, work permits and first permissions are of particular interest as they were sought for foreign workers newly entering the labour market and can be used as an indicator of international labour immigration. Their numbers rose from about 24,000 in 1995, peaked at around 96,000 in 2006, falling back to 78,000 in 2008. There is some evidence that there was a last minute rush by employers to submit applications before the launch of Tier 2 of the PBS on 26 November 2008⁴ and this would explain the relatively small fall over the year, despite the economic downturn.

The third implication of the statistics is that any attempt at major curtailment or reduction in inflows of skilled workers through the PBS at the present time would have a major impact on some very specific groups and areas of economic activity. The 2008 data show particularly the importance

of computer services, the significant role of intra-company transfers and the domination of Indians in both Tier 1 and Tier 2. This selectivity is a significant issue and is considered further in the conclusions.

Table 2 shows a breakdown of work permits and first permissions approvals for the main industry groups using the work permit system for the last four years for which data are available. Just a few industries account for most permit issues with the dominance of computer services now unchallenged. Permits for health and medical staff have moved decisively in the opposite direction. There is also a concentration by nationality, with Indians, accounting for 41 per cent of all work permits issued in 2008, way ahead of the USA which came second on the list (Table 3). When nationality and industry are cross-tabulated, the dominance of Indians in computer services is manifest: they accounted for 89 per cent of all the permits issued in this industry and 60.5 per cent of Indians worked in computer services. Other significant flows were Australians in education and cultural activities (they accounted

Figure 1: Work permit applications approved by type 1995 to 2008

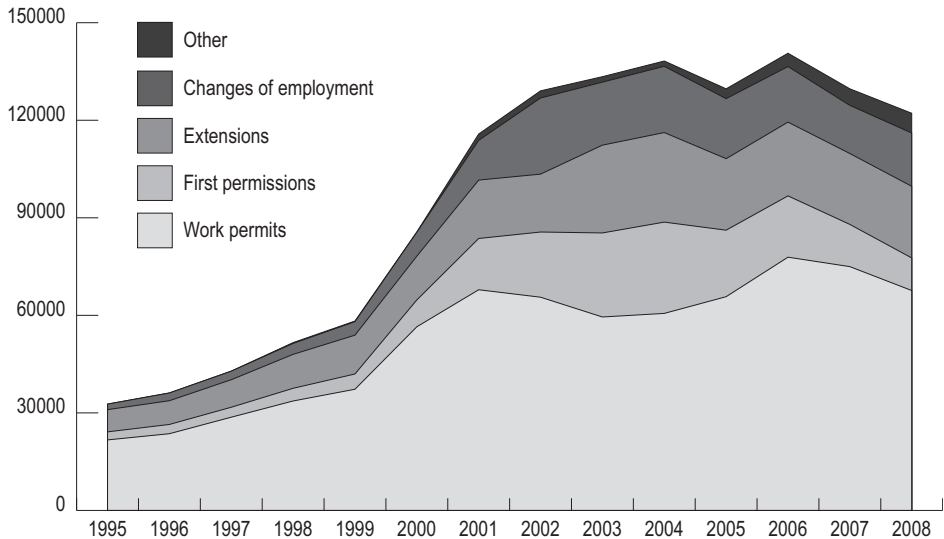


Table 2: Work permits and first permissions approved by industry for 2005 to 2008

	2005	2006	2007	2008	2005	2006	2007	2008
	numbers				per cent			
Administration, business and management services	10,129	12,006	11,273	10,249	11.8	12.4	12.8	13.2
Agriculture activities	382	419	405	304	0.4	0.4	0.5	0.4
Computer services	15,616	21,024	23,677	21,690	18.1	21.8	26.9	27.9
Construction and land services	2037	3367	2953	2338	2.4	3.5	3.4	3.0
Education and cultural activities	6404	7449	7087	6274	7.4	7.7	8.1	8.1
Entertainment and leisure services	4260	4598	4619	4770	4.9	4.8	5.3	6.1
Extraction industries	1086	1534	1401	1392	1.3	1.6	1.6	1.8
Financial services	6526	8695	9666	7852	7.6	9.0	11.0	10.1
Government	672	652	492	396	0.8	0.7	0.6	0.5
Health and medical services	22,477	17,162	7526	5883	26.1	17.8	8.6	7.6
Hospitality, hotels, catering and other services	6494	7246	4799	3865	7.5	7.5	5.5	5.0
Law related services	987	1157	1216	1004	1.1	1.2	1.4	1.3
Manufacturing	2970	3036	2958	3153	3.4	3.1	3.4	4.1
Real estate and property services	201	285	329	140	0.2	0.3	0.4	0.2
Retail and related services	1276	1594	1536	1092	1.5	1.7	1.7	1.4
Security and protective services	99	138	144	212	0.1	0.1	0.2	0.3
Sporting activities	1945	1953	2360	2677	2.3	2.0	2.7	3.4
Telecommunications	858	2092	3699	2466	1.0	2.2	4.2	3.2
Transport	961	996	834	855	1.1	1.0	0.9	1.1
Utilities: gas, electricity, water	492	1051	817	945	0.6	1.1	0.9	1.2
Unconfirmed	319	—	177	103	0.4	—	0.2	0.1
Total	86,191	96,454	87,968	77,660	100.0	100.0	100.0	100.0

Source: UK Border Agency

for 18.7 per cent of the permit issued in this sector and they comprised 10.3 per cent of the sector total) and Japanese, 22.8 per cent of whom worked in manufacturing where they comprised 15 per cent of all work permits in the sector.

Of particular significance is the high proportion of work permit issues accounted for by intra-company transfers (ICTs), which are now in Tier 2 of the new system. Under Tier 2 (discussed in more detail below), an intra-company transferee almost automatically has sufficient points to enter the UK and take up the job offered by the employer. This may change because, in light of the current economic circumstances, the government asked the Migration Advisory Committee in April 2009 to review the situation with respect to ICTs. Questions are being raised in the media as to whether the inflow, particularly in computer services, involves the substitution of cheaper foreign labour to cut costs.⁵

In 2008, 46.5 per cent of work permits were to ICTs (Table 4). The bulk of these were in computer services, administration

and business services, finance and telecommunications. In contrast, non-ICT permits were especially in education and cultural activities, health and medical services, administration and business services, entertainment and leisure services, finance, hospitality, sporting activities and then computer services. What this means is that those sectors where the MAC currently has most say (non-ICTs) are mainly quite different from those where it has least say (ICTs). The high degree of selectivity in flows becomes apparent when industrial sector, nationality and corporate transfers are interlinked. This is especially significant in computer services. Three quarters of Indians coming as ICTs work in this sector and no less than 92.7 per cent of all ICTs in this sector are Indians (who also comprise 80.7 per cent of all transferees in telecommunications). Hence, any points or policy shift in relation to ICTs will impinge on specific sectors and nationalities.

These data and the most recent ones on the Highly Skilled Migrant Programme (HSMP), now incorporated in Tier 1, dem-

Table 3: Work permits and first permissions issued in the UK by nationality 2005–2008

	2005	2006	2007	2008	2005	2006	2007	2008
	numbers				per cent			
All nationalities	86,191	96,740	87,968	77,660	100.0	100.0	100.0	100.0
Australia and New Zealand	5548	6416	5427	4491	6.4	6.6	6.2	5.8
Canada	1885	2258	2083	1859	2.2	2.3	2.4	2.4
South Africa	4404	4339	2883	2386	5.1	4.5	3.3	3.1
United States	9186	10,350	11,126	10,375	10.7	10.7	12.6	13.4
Japan	2403	2358	2186	2073	2.8	2.4	2.5	2.7
Pakistan	2895	2843	2223	1886	3.4	2.9	2.5	2.4
Nigeria	1309	1145	1004	1035	1.5	1.2	1.1	1.3
Russia	938	1088	1182	1012	1.1	1.1	1.3	1.3
India	29,261	35,809	36,254	31,879	33.9	37.0	41.2	41.0
Philippines	4650	4328	1844	1202	5.4	4.5	2.1	1.5
China	4332	4948	4578	3900	5.0	5.1	5.2	5.0
Malaysia	1412	1859	1375	1228	1.6	1.9	1.6	1.6

Source: UK Border Agency

onstrate the importance of Indians within total inflow. In 2007 (latest data) they accounted for 37.4 per cent of the 28,000 HSMP approvals. By contrast Australians, the second largest HSMP group, accounted for only 11.4 per cent.

Overall, the statistics show that the UK is part of an international network of mobility in which ‘no country is an island’. In particular, they indicate the importance of skilled workers from India and the role of foreign labour in the computer services industry.

NEW ARRANGEMENTS FOR A NEW APPROACH

Before proceeding to the detail of the PBS and its implications for recruitment to particular skilled occupations, it is necessary

to explain briefly how its implementation is being organised. The transition to the new system is taking place in the context of fundamental structural change, with the Home Office’s Immigration and Nationality Department having been replaced in 2008 by the new, semi-autonomous UK Borders Agency (UKBA) within the Home Office. The role of this agency is to make decisions related to the details of operations and it has significant operational freedom. It is now in the front line on immigration issues that receive media attention and, through the Home Office, is held accountable to Parliament and the public for its performance. The objective has been to clarify lines of accountability regarding the operational aspects of policy implementation and to establish clearer spheres of responsibility

Table 4: Intra-company transfer (ICT) work permits by sector,¹ 2008

	ICT	Total	Per cent
Administration, business and management services	4943	10,249	48.2
Agriculture activities	21	304	6.9
Computer services	19,208	21,690	88.6
Construction and land services	615	2338	26.3
Education and cultural activities	227	6274	3.6
Entertainment and leisure services	175	4770	3.7
Extraction industries	816	1392	58.6
Financial services	4024	7852	51.2
Government	13	396	3.3
Health and medical services	336	5883	5.7
Hospitality, hotels, catering and other services	78	3865	2.0
Law related services	266	1004	26.5
Manufacturing	1844	3153	58.5
Real estate and property services	23	140	16.4
Retail and related services	394	1092	36.1
Security and protective services	99	212	46.7
Sporting activities	7	2677	0.3
Telecommunications	2030	2466	82.3
Transport	500	855	58.5
Utilities: gas, electricity, water	506	945	53.5
Total	36,125	77,660	46.5

Source: UK Border Agency

Note: ¹ work permits and first permissions only

for ministers, civil servants and central and regional administrators.

Within the UKBA, two new advisory committees are intended to guide immigration policy and help steer its implementation. The more important of these is the Migration Advisory Committee (MAC), all of whose members are economists. This has responsibility for identifying skill gaps in the labour market, and establishing and updating a shortage occupation list for migration purposes (see below). The second advisory committee is the Migration Impacts Forum. Its role is to assess the wider, more qualitative, social implications of immigration in local regions and to help ensure that public services, such as housing, education, health and social care can respond to new demands arising from migration.

The role of the MAC is potentially one of some significance in influencing the size and nature of labour inflows and is therefore discussed further below. The UK House of Commons Home Affairs Committee recently questioned the Chair of the MAC on the extent of ministerial pressure to produce particular recommendations and he stoutly defended the body's independence.⁶

The processes by which the points system is being made operational rely heavily on the active participation of diverse stakeholders. Employers who wish to sponsor workers under the PBS must first obtain a licence. They must have good human resource systems in place to monitor and keep records of the migrants they employ, report any who cease turning up for work and ensure that none are working illegally. Universities and other institutions of higher education have to meet similar requirements with regard to students and researchers recruited from overseas.

What this means is that employers and educational institutions now have a greater role in ensuring compliance through self-policing. If the correct procedures are

not followed they may lose their right to sponsorship. Human rights legislation adds further complications in that compliance procedures must apply to all employees and not just foreign workers. Employers who are sponsors must make sure that the migrant who is coming to work is legally allowed to do the job and has the right registration or professional accreditation where needed by law. The employer must also keep a copy of the registration document or certificate and this must be made available to UKBA on demand. So, for example, if the migrant is coming to work as a doctor, the employer must make sure they have the right registration to allow them to practise in the United Kingdom.

Anyone whose immigration status (or lack of status) does not allow them to do the job for which they are applying should not be employed and the employer must cease employing someone who stops being allowed to work for any reason. Finally, certificates of sponsorship should only be given to migrant workers who, to the best of the employer's knowledge, meet the requirements of the tier or category under which they are applying as specified in the immigration rules and who are likely to meet the conditions of their permission to enter or stay in the United Kingdom.

Even though the PBS has only been in partial operation since February 2008 some difficulties are already evident. For example, there has been a geographical devolution of decision-making from UK-based officials to British missions abroad. In consequence, it has become more difficult for employers to interact with frontline officials responsible for operating the PBS. Documentary defects, however minor, require applicants to reapply and pay further fees without the direct help of employers.

An important principle underlying the PBS is transparency, linked to objectivity. However, guidance from the UKBA for each of the Tiers runs to over 50 pages and

the application forms are long and complex, demanding a level of detail that challenges flexibility and increases the administrative effort required by sponsors and migrants alike.

Inevitably, there have been some initial problems in implementing the new system. What emerges from the inquiry of the Home Affairs Committee is the difficulty for UKBA of getting to grips with the complexity of different employment sectors and the diverse circumstances in which people move internationally, or are moved by their employers. It appears that both sponsors and intending migrants seeking advice on their particular position in relation to the PBS have sometimes found it hard to get clarification. Specific issues have arisen where posts needed filling very rapidly. As the new organisation beds down, more flexibility, more information online and the expansion of advisory services may reduce the problems over time.

Other difficulties for labour migrants, even those with a sponsor, seem to be arising because of the requirement which now prevails for virtually all UK visa applicants to provide biometric data (10-digit finger scans and a digital photograph) as part of the application process. This means attending a visa application centre or British mission, which may be hundreds of miles away from the home of the would-be migrant.

Difficulties and delays in getting through the bureaucracy may, at least in the short term, have the effect of reducing movement to the UK and could have some negative effects on the economy and public services.

TIERS OF THE PBS

The PBS itself comprises five tiers, each of which relates to a certain category of migrant. Details may be found at <http://www.ukba.homeoffice.gov.uk/>. The timetable for the roll-out is as follows:

Tier 1—*February 2008*

Tier 2—*November 2008*

Tier 3—*suspended*

Tier 4—*March 2009*

Tier 5—*November 2008*.

Tier 1

This category allows migrants from non-EEA countries to enter the UK and seek work. There are four groups: highly skilled workers, investors, entrepreneurs and post-study students. Highly skilled workers do not have to have a job before entry but they do need to provide evidence that they have the required skills, the money to support themselves and that they are proficient in the English language. There is a sliding scale of points based on previous earnings, from £20,000 to £40,000 per year, and a multiplier is used to standardise overseas earnings levels according to standard of living. Post-study students must have graduated at UK universities and are then allowed to stay in the country to seek or take up work for a period. They must demonstrate that they have the funds to support themselves and any family members. Maintenance is set at £2,400, plus start-up costs of £400; maintenance for the first dependant is set at £1,600 and £800 for each subsequent one.⁷ These amounts must be held in the applicant's personal bank account for a minimum period of three months immediately preceding and dated no more than one month prior to the date of application submission.

So far, few details have emerged about how the system is working in practice. Major concerns with respect to Tier 1 have related to the status of people already in the UK under its predecessor, the Highly Skilled Migrants Programme, and also the rules regarding maintenance. The UK Border Agency has agreed that an employer can guarantee the maintenance, but only for the employee. If employees do not have the necessary funds for their family,

then the family will have to wait until the employee has held those funds for at least three months. This may mean some migrants, mainly from non-OECD countries, will have to leave their families behind. The skill shortage list (Tier 2) does not affect eligibility for applications in Tier 1.

Tier 2

Tier 2 is designed for skilled workers and contains four categories:

- General—for people coming to the United Kingdom with a job offer to fill a gap that cannot be filled from within the resident labour force. This category is also for applicants coming to fill occupations where there is a shortage.
- Intra-company transfer—for employees of multinational companies who are being transferred by an overseas employer to a skilled job in a United Kingdom-based branch of the company.
- Sportspeople—for elite sportspeople and coaches whose employment will make a significant contribution to the development of their sport at the highest level.
- Minister of Religion—for those people coming to fill a vacancy as a Minister of Religion, Missionary, or Member of a Religious Order.

A combined register of sponsors now exists for Tiers 2 and 5 and around 8,300 employers have registered. The list is diverse, encompassing a wide range of large and small employers in manufacturing and services, including sports clubs, educational establishments and health authorities.

A fundamental part of Tier 2 is the shortage occupation lists, for the United Kingdom and Scotland. This list comprises skilled occupations where the government considers that there are shortages to the degree that it is sensible for vacancies to be filled by migrant workers from outside the European Economic Area. Migrant workers seeking to come to work in the UK score

points if they are applying to work in one of these occupations. But even if they are in receipt of a job offer, there are mandatory requirements for maintenance and competence in English (10 points each) with a further 50 points needed through a combination of the offer of a job in a shortage occupation (50 points), offer of a job that passes a resident labour market test (30 points),⁸ an intra-company transfer (30 points), switching from a post-study category (30 points).

Acting on advice from the independent Migration Advisory Committee⁹ that reported to government on this matter in September 2008, a new government-approved UK shortage occupation list for Tier 2 of the Points Based System was announced and came into operation in November 2008. This replaced the existing list from the old work permit system. The November 2008 list was revised in May 2009 and, like its predecessor, aims to limit inflows but not to meet a specific quantitative target. More detail is given below.

Tier 3

This is for low skilled workers but is currently in abeyance on the assumption that suitable workers from Bulgaria and Romania, the latest recruits to the EU, are available.

Tier 4

This is the student tier of the PBS. A delivery plan for it was announced by the Home Office in October 2008. Under the new system, rolled out from March 2009, colleges and universities which want to teach non-EEA nationals must have a licence issued by the UK Border Agency. Licensed institutions can then sponsor non-EEA students to come to study in the UK. The system is designed to clamp down on bogus students and to ensure that only those who benefit Britain can continue to come. Before they can study here foreign students

must be sponsored by a UK Border Agency-licensed education institution, supply their fingerprints and meet new criteria.

There is a register of sponsors for Tier 4 applicants, currently listing about 1,200 educational establishment sponsors. From March 2009, the following measures came into effect: all colleges and universities that want to recruit foreign students must have a sponsor licence, every student needs a licensed sponsor, and stricter rules protect the UK's labour market. From Autumn 2009 the system will be tightened further with the introduction of a 'sponsor management system'—dedicated technology that will make it easier for universities and colleges to inform the UK Border Agency if students fail to enroll or if they miss more than ten expected teaching contacts without permission. However, within universities there is some resistance to the Tier 4 rules which are perceived by many academics as making them into front line immigration officers.¹⁰

Tier 5

Tier 5 is for various temporary workers:

- Creative and sporting—for people coming to the United Kingdom to work or perform as sportspeople, entertainers or creative artists for up to 12 months.
- Charity worker—for people coming to the United Kingdom to do voluntary, unpaid work for a charity.
- Religious worker—for people coming to the United Kingdom to work as religious workers. Duties may include preaching, pastoral and non-pastoral work.
- Government authorised exchange—for people coming to the United Kingdom through approved schemes that aim to share knowledge, experience and best practice.
- International agreement—for people coming to the United Kingdom under contract to provide a service that is

covered under international law.

Tier 5 also includes a youth mobility scheme. Sponsors are sending governments. So far, only Australia, New Zealand, Canada and Japan have agreed to participate. This Tier includes the former Working Holiday Maker Scheme.

ROLE OF THE MIGRATION ADVISORY COMMITTEE (MAC)

The Migration Advisory Committee has been given a key role by the government in the operation of the PBS. Its primary task is identifying skill shortages but it is also being used to look into broader issues.

Shortage list

The remit of the MAC is to carry out a partial review of the shortage occupation list every six months.¹¹ The advantage of partial reviews is that the Committee is able to look at certain occupations in much greater detail than if all on the list were to be fully reviewed. The government announced in November 2008 that it accepted the first MAC shortage list in full, with the temporary addition of social workers. The list became operational with the introduction of Tier 2 in November 2008. The first revision of the list was published in April 2009, with a focus on jobs in health care, social work and construction.¹² Changes include a revised list of healthcare occupations, with some additions and removals and the continued inclusion of social workers who work with children and families. In response to the labour market impact of the recession, the suspension from the first list of two occupations within the construction sector was proposed. A separate list was prepared for Scotland.

The full list of shortage occupations recommended in April 2009 is in Table 5. Despite the downturn, this second list is not greatly different from its predecessor. The main changes from the first list are summarised below:

- *Additions*—skilled orchestral musicians; various roles within visual effects and 2D/3D computer animation for film, television and video games; skilled contemporary dancers.
- *Amendments*—all social workers removed except for those working in children’s and family services; a revised list of medical and health-related occupations; changed criteria for assessing skill levels of care assistants, chefs and sheep shearers; change of job title for high integrity pipe welders.

- *Suspensions*—quantity surveyors; project managers for property development and construction.

The MAC estimates that the occupations on its new list accounted for about 530,000 employees, some two per cent of total employment in the UK. These figures are not jobs available to foreign workers; they represent total employment in the country in the occupations listed. The government accepted the revised list in full in May 2009.

Table 5: Recommended UK shortage occupations list for Tier 2 of the points based system, March 2009

Job title	Notes
Civil engineers	
Physicists, geologists and meteorologists	selected specialisms
Chemical engineers	
Aircraft component manufacturing engineer	
Ship and hovercraft officers	
High integrity pipe welders	
Electricity transmission overhead lineworkers	
Medical practitioners	consultants in certain specialisms
Dental practitioners	orthodontics and paediatric consultants
Veterinarian surgeons	
Biological scientists and biochemists, psychologists, pharmacists/pharmacologists, medical radiographers, medical and dental technicians, speech and language therapists, therapists n.e.c.	selected specialisms
Secondary education teacher in maths and science	
Social workers in children’s and family services	
Nurses	Theatre, critical care, operating department practitioners
Skilled senior care workers	
Dancers and choreographers	skilled classical ballet and skilled contemporary dancers
Skilled orchestral musicians	
Photographers and audio-visual equipment operators	selected skilled specialisms
Skilled chefs	
Skilled work rider (jockey)	
Skilled sheep shearer	

Source: Migration Advisory Committee 2009

Other MAC activities

Although the original remit for the MAC was principally to advise on labour shortages, it has been asked to perform other, related tasks. These have included reviewing the situation with respect to the eight Eastern European countries acceding to the EU in May 2004 (A8)¹³ and two others in January 2007 (A2).¹⁴ In August, 2008 the government asked it to ‘consider what the likely impact on the UK labour market would be of relaxing existing restrictions [on Bulgaria and Romania—A2], and whether it would be sensible to do so’, following expiry of the existing transition period restrictions in January 2009. Options considered were to continue with the current restrictions, to relax some of them or to remove them all. Following consultations with a wide range of stakeholders, in the UK and the A2 countries, in December 2008 the MAC recommended that the current restrictions should be continued for another three years.¹⁵ The government accepted the recommendation.

In February 2009 the government asked the MAC to ‘consider what the likely labour market impact of relaxing transitional measures [for A8 nationals] would be and whether it would be sensible to do so’. The crux of the issue was whether or not there was a case for retaining the Worker Registration Scheme (WRS) for a further two years. In April, 2009, having reviewed UK labour market conditions, where unemployment has increased sharply, the MAC concluded that although removing the WRS would not result in substantial inflows of A8 immigrants, there may be some small increase.¹⁶ In the circumstances any increase, however small, might have adverse effects for some domestic workers and therefore the WRS should be maintained for a further two years. Subsidiary reasons were the potential effects on social security benefits of any increase, together with the loss of an important statistical data

set if the WRS ceased to exist. As with the A2 decision, the government accepted the recommendation.

DISCUSSION AND CONCLUSION

From the outset, the PBS was designed primarily to identify the labour needs of the economy and channel appropriate skills into the country. An additional task was to manage the flow of international students into the country more effectively (Tier 4) and, after graduation, into the economy through the post-study element in Tier 1. During the recession the PBS is seen by the government as its main policy initiative in reducing the inflow of labour.

Measures to raise the bar for foreign workers wishing to enter the United Kingdom, and to give domestic workers a greater chance of applying first for United Kingdom jobs, were unveiled by the Home Secretary in February 2009. From 1 April 2009 the resident labour market test for Tier 2 skilled jobs was strengthened so that employers must advertise jobs to resident workers through the national JobCentre Plus network of labour offices before they can bring in a worker from outside the EEA. The Government announced that each revised shortage occupation list would be used to trigger skills reviews that would focus on up-skilling resident workers for these occupations in order to make the United Kingdom less dependent on migration for the future. In addition, new criteria against which highly skilled migrants seeking entry to the United Kingdom are judged would be introduced, raising the qualifications and salary required for Tier 1 (General) of the PBS to a Master’s degree and a minimum annual salary of £20,000.

All this may, in the immediate or longer term, make it more likely that domestic labour will be recruited in particular circumstances rather than non-EEA migrants. However, looking at the pattern of foreign recruitment through work permits 2005 to

2008, it is clear that a substantial proportion were intra-company transfers (almost half in 2008—Table 4) and that those with computer skills predominated. Previous research in which we were involved has indicated that many transferees in information technology have specialist expertise relating to the particular company and systems they work with, as distinct from high level academic qualifications of a more general nature.¹⁷ It is unclear how far unemployed domestic labour could be substituted.

Similar examples can be cited from other areas of employment. The Chief Executive of the Law Society, giving evidence to the House of Commons Home Affairs Committee,¹⁸ asserted that secondments and transfers within international law firms were of a specialised nature: an unemployed conveyancing solicitor could not instantly transmute into an international expert on insolvency. Also, in this as in

other spheres, international movement of staff within global organisations can be part of career development.

It follows that the PBS in its operation will have to go beyond the short-term needs of the domestic labour market and get to grips with the realities of globalisation, with international organisations moving UK citizens abroad for periods of time just as they move foreign citizens into the UK.

Another matter for future consideration will be the efficiency and effectiveness of devolving responsibilities to different stakeholders and locations in the way that has been done. It is too soon to judge how well the new arrangements will work. It may be that in time of recession, the existence of any obstacles or delays to foreign recruitment will not be perceived by government as a problem. But in the context of fierce international competition for skills, it could become one.

References

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- ³ Work permits apply to non-EEA labour; the WRS applies to A8 citizens (see note 13 below).
- ⁴ Migration Advisory Committee, *Skilled, Shortage, Sensible: First review of the recommended shortage occupation lists for the UK and Scotland*, London, Home Office, 2009 <<http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/>> last accessed 5 June 2009
- ⁵ See, for example <<http://news.bbc.co.uk/1/hi/business/8077579.stm>> last accessed 9 June 2009.
- ⁶ House of Commons, Home Affairs Committee, Memorandum submitted by Migration Advisory Committee, Examination of Witness, Q251, 2009 <<http://www.publications.parliament.uk/pa/cm200809/cmselect/cmhaff/uc217-iv/uc21701.htm>>
- ⁷ Details of available points are at UKBA <<http://www.ukba.homeoffice.gov.uk/employers/points/whatisthe-pointsbasedsystem/>>.
- ⁸ Employers may bring in non-EEA skilled foreign workers in occupations not on the shortage list provided that they have advertised the job throughout the EEA without finding anyone suitable.
- ⁹ Migration Advisory Committee, *Skilled, Shortage, Sensible: The recommended shortage occupation lists for the UK and Scotland*, London, Home Office, 2008 <<http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/>> last accessed 5 June 2009
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