



## The abuse of ICT visas in the IT sector

### Summary

1 The Intra-company transfer (ICT) was intended bring in experienced and specialist staff to the UK offices of a multinational company. In the year to June 2010 over 57,000 ICT visas were issued [1]. It should not be used to displace a suitable UK worker [2]. However it is being used in the IT sector to replace UK workers on cost grounds, either by helping to relocate the work to India or by filling UK based jobs with Indian workers. This is an abuse of the ICT visa. The criteria for this visa should be strengthened, notably by raising the salary threshold to £50,000 to return this route to its original purpose.

### ICT Visas

2 The ICT visa is intended for employees of multi-national companies who are being transferred by their overseas employer to a UK branch of the organisation. It was originally set up to fulfil three different kinds of business need:

- To fill senior management positions for a limited time
- To transfer knowledge (either to or from the UK)
- To offer international experience as part of a training programme

3 Accordingly, there are three sub-categories [2]:

- Established staff –skilled employees that fill a post that cannot be filled by a settled worker. This visa can be granted for up to 3 years and one month and can be renewed for a further two years. The minimum skill level required is S/NVQ level 3.
- Graduate Trainee –allows the transfer of recent graduate recruits to the UK for training purposes. The visa can be granted for 12 months and is limited to graduate occupations and to a maximum of five visas per employer.
- Skills transfer - allows the transfer of new recruits to the UK to acquire the skills and knowledge they will need overseas, or to impart their knowledge to the UK workforce. It can be granted for 6 months and is limited to graduate occupations only.

Of these, the established staff route is the largest number and unless mentioned otherwise is the subject of the rest of this note.

4 The ICT visa comes under Tier 2 of the Points Based System (PBS). A company has to apply for and is allocated certificates of Sponsorship (CoS). These CoS are then used to bring in people to the UK providing they meet the points requirements. Points are awarded for the sponsorship itself and for qualifications, expected earnings, English language and available maintenance. English language is not required unless the visa is for more than three years. The point's requirements are met with a bachelor degree and a salary of £24,000 or a master degree and a salary of £20,000. This visa is not subject to the Resident Labour Market Test (RLMT). Tier 2 ICTs applied for from April 2010 no longer lead to residency [3]

5 In the year to June 2010 there were 26,500 main entry ICT visas granted with an estimated 18,500 dependant visas [1]. In addition there were over 12,000 renewals (main and dependant), making a total of 57,000. Dependants of those on an ICT visa have the right to work in the UK.

6 In 2009 half of all ICT visas issued went to Indian software workers. In 2008 three IT companies alone accounted for nearly 10,000 of the ICT work permits granted [4].

### **The IT sector**

7 UK companies often contract out a large part of their IT function to a third party provider to reduce costs. This provider can either deliver IT services 'onsite' in the UK or remotely 'off-shore' to the client company. Delivering IT offshore allows companies to develop facilities in lower cost locations. The work might be both operational such as application, or project based (such as BA's new online booking system). For project work large parts can be developed in India but the design and delivery aspects are carried out in the UK.

8 There is no shortage of IT workers in the UK. IT jobs are not on the shortage occupation list and unemployment among computer science graduates was reported to the highest of any discipline at 17% [5].  
Use of the ICT visa by Indian IT workers

9 To facilitate outsourcing staff often with general IT skills are brought to the UK to gain knowledge of the client company and its operations before transferring with that knowledge back to India. Other staff are brought in to deliver IT work 'onshore' for the IT provider to the client company.

### **Abuse of the ICT visa in the IT sector**

10 The requirements of the ICT visa of prior company knowledge and equal pay and conditions are intended to prevent the replacement of UK workers by imported workers. However this does not seem to be the case in the IT industry. The use of Indian workers with generic IT skills means it is not their skill or experience that is bringing them to the UK but the need to understand the host company that is planning to outsource its IT function. This seems to fall outside the original intentions of the ICT visa of prior company knowledge. Because the IT skills required are general this is also work that could be carried out by UK workers, again contrary to the rules of the ICT visa, guidance for which states "employers cannot offer a job to a non-settled worker if it means that a suitable settled worker will be turned down for the job or made redundant".

11 PCG –the UK association representing freelancers and contractors, has been asking their members to report instances of abuse [6]. Members of PCG have made allegations including

- ICT visas being used to facilitate outsourcing and displace UK workers:  
Many PCG members allege having to train up their own replacements. When IT operations are outsourced, a firm can bring its overseas staff 'onshore' to the UK for a brief period. Domestic workers are often tasked with training this 'onshored' worker, and when this training is complete the UK worker can find that their contract is not renewed, leading these jobs being removed from the labour market.
- Replacing staff in UK based jobs:  
UK contractors are having their contracts terminated and replaced by Indians workers brought into the UK on ICT visas.
- Worse working conditions than their UK equivalents:  
Some PCG members have alleged that non-European Economic Area staff are made to work longer hours than their UK Counterparts. PCG members have said that they believe some ICT workers are given very limited holiday entitlement can even be refused sick leave when ill.

12 The Migration Advisory Committee (MAC) recently highlighted the use of tax free allowances for accommodation and expenses being included in the salary calculations under the PBS [7]. This evidence suggests that migrants are being used specifically to cut costs and replace UK workers who have the equivalent or better skills. This is not the purpose of the ICT. Actions to limit ICT visas

13 There a number of ways to strengthen the ICT visa regime that will continue to allow genuine senior or experienced specialist staff of multi-national companies to work in the UK:

- **Salary Requirements:** The minimum level could be raised. Migrationwatch has previously proposed £50,000.
- **Certificates of Sponsorship:** The total could be capped, they could be auctioned or the cost increased substantially once a threshold for a company has been reached (e.g. the eleventh to cost much more than the first ten).
- **Expenses:** Expenses and accommodation must be removed from the salary calculations.
- **English Requirement:** This could be introduced.
- **Resident Labour Market Test:** could be introduced for IT jobs which are most open to abuse. This test needs to be strictly enforced to ensure these roles are advertised widely via the numerous technology job sites and at the proper UK rates.
- **Improve the monitoring and enforcement of the visa conditions:** This includes ensuring that the salaries and the working conditions of the foreign workers are fair and do not undercut those of British workers

14 The following are our main recommendations:

- The ICT route should be retained but returned to its original purpose
- The salary threshold should be raised to £50,000 a year (except for graduate trainees).
- The cost of the certificate of sponsorship should rise dramatically once a company has been issued with a certain number set as a proportion of their total UK staff. This would allow companies to bring in small numbers of senior staff but act as a disincentive to those companies that are bringing in large numbers of IT workers.

15 November, 2010

## NOTES

- 1 Number includes main and dependant, entry and renewal visas: Control of immigration: Quarterly Statistical Summary, April –June 2010 <http://rds.homeoffice.gov.uk/rds/pdfs10/immiq210.pdf>
- 2 Tier 2 of the Points Based System - Policy Guidance version 10/10 [www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2-guidance.pdf](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2-guidance.pdf)
- 3 UKBA <http://www.ukba.homeoffice.gov.uk/>
- 4 Hansard 20th October 2010 Col 755 W
- 5 BBC News <http://www.bbc.co.uk/news/10477551>
- 6 Meetings and material from PCG- The Voice of Freelancing
- 7 Analysis of the Points Based System Tier 2 and dependants, Migration Advisory Committee, August 2009 <http://www.ind.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/pbsanalysis-09/0809/mac-august-09?view=Binary>