

## **Part 6A - Points-based system**

### **245AAA. General requirements for indefinite leave to remain**

For the purposes of references in this Part to requirements for indefinite leave to remain, except for those in paragraphs 245BF, 245DF and 245EF:

(a) "continuous period of 5 years lawfully in the UK" means residence in the United Kingdom for an unbroken period with valid leave, and for these purposes a period shall not be considered to have been broken where:

(i) the applicant has been absent from the UK for a period of 180 days or less in any of the five consecutive 12 month periods preceding the date of the application for leave to remain;

(ii) the applicant has existing limited leave to enter or remain upon their departure and return except that where that leave expired no more than 28 days prior to a further application for entry clearance, that period and any period pending the determination of an application made within that 28 day period shall be disregarded; and

(iii) the applicant has any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period disregarded.

(b) Except for periods when the applicant had leave as a Tier 1 (General) Migrant, a Tier 1 (Investor) Migrant, a Tier 1 (Entrepreneur) Migrant, a Tier 1 (Exceptional Talent) Migrant, a highly skilled migrant, a businessperson, an innovator, an investor, a self-employed lawyer or a writer, composer or artist:

(i) the applicant must have been employed in the UK continuously throughout the five years, under the terms of their Certificate of Sponsorship, work permit or in the employment for which they were given leave to enter or remain, except that any breaks in employment in which they applied for leave as a Tier 2 Migrant, or, under Tier 5 Temporary Worker (International Agreement) Migrant as a private servant in a diplomatic household, where in the latter case they applied to enter the UK before 6 April 2012, to work for a new employer shall be disregarded, provided this is within 60 days of the end of their employment with their previous employer or Sponsor; and

(ii) any absences from the UK during the five years must have been for a purpose that is consistent with the continuous employment in (i), including paid annual leave or for serious or compelling reasons.

### **245AA. Documents not submitted with applications**

(a) Where Part 6A or any appendices referred to in Part 6A state that specified documents must be provided, the UK Border Agency will only consider documents that have been

submitted with the application, and will only consider documents submitted after the application where they are submitted in accordance with subparagraph (b).

(b) If the applicant has submitted:

(i) A sequence of documents and some of the documents in the sequence have been omitted (for example, if one bank statement from a series is missing);

(ii) A document in the wrong format; or

(iii) A document that is a copy and not an original document, the UK Border Agency may contact the applicant or his representative in writing, and request the correct documents. The requested documents must be received by the UK Border Agency at the address specified in the request within 7 working days of the date of the request.

(c) The UK Border Agency will not request documents where a specified document has not been submitted (for example an English language certificate is missing), or where the UK Border Agency does not anticipate that addressing the omission or error referred to in subparagraph (b) will lead to a grant because the application will be refused for other reasons.

(d) If the applicant has submitted a specified document:

(i) in the wrong format, or

(ii) that is a copy and not an original document,

the application may be granted exceptionally, providing the UK Border Agency is satisfied that the specified documents are genuine and the applicant meets all the other requirements. The UK Border Agency reserves the right to request the specified original documents in the correct format in all cases where (b) applies, and to refuse applications if these documents are not provided as set out in (b).

#### **245A. Specified documents for students previously sponsored by an overseas government or international scholarship agency**

Where Part 6A of these Rules state that specified documents must be provided to show that a sponsoring government or international scholarship agency has provided its unconditional written consent to the application, the specified documents are original letters, on the official letter-headed paper or stationery of the organisation(s), bearing the official stamp of that organisation and issued by an authorised official of that organisation. The documents must confirm that the organisation gives the applicant unconditional consent to remain in or re-enter the UK for an unlimited time.

### **Tier 1 (Exceptional Talent) Migrants**

## **245B. Purpose**

This route is for exceptionally talented individuals in the fields of science, humanities, engineering and the arts, who wish to work in the UK. These individuals are those who are already internationally recognised at the highest level as world leaders in their particular field, or who have already demonstrated exceptional promise in the fields of science, humanities and engineering and are likely to become world leaders in their particular area.

### **245BA. Entry to the UK**

All migrants arriving in the UK and wishing to enter as a Tier 1 (Exceptional Talent) Migrant must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

### **245BB. Requirements for entry clearance**

To qualify for entry clearance as a Tier 1 (Exceptional Talent) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (c) The applicant must have a minimum of 75 points under paragraphs 1 to 6 of Appendix A.
- (d) an applicant who has, or was last granted, leave as a student or a Postgraduate Doctor or Dentist, a Student Nurse, a Student Writing-Up a Thesis, a Student Re-Sitting an Examination or as a Tier 4 Migrant and:
  - (i) is currently being sponsored by a government or international scholarship agency, or
  - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above to show that this requirement has been met.

### **245BC. Period and conditions of grant**

Entry clearance will be granted for a period of 3 years and 4 months and will be subject to the following conditions:

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326,
- (iii) no employment as a Doctor or Dentist in Training, and
- (iv) no employment as a professional sportsperson (including as a sports coach).

#### **245BD. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (Exceptional Talent) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have a minimum of 75 points under paragraphs 1 to 6 of Appendix A.
- (c) If the applicant has, or was last granted, leave as a Tier 1 (Exceptional Talent) Migrant, the applicant must have a minimum of 10 points under paragraphs 1 to 15 of Appendix B.
- (d) The applicant must have, or have last been granted, entry clearance, leave to enter or remain as:
  - (i) a Tier 1 (Exceptional Talent) Migrant,
  - (ii) a Tier 2 (General) Migrant, or
  - (iii) as a Tier 5 (Temporary Worker) Migrant, sponsored in the Government Authorised Exchange sub-category in an exchange scheme for sponsored researchers.
- (e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **245BE. Period and conditions of grant**

- (a) Leave to remain will be granted:

(i) for a period of 2 years, to an applicant who has, or was last granted, leave as a Tier 1 (Exceptional Talent) Migrant, or

(ii) for a period of 3 years, to any other applicant.

(b) Leave to remain under this route will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326,

(iii) no employment as a Doctor or Dentist in Training, and

(iv) no employment as a professional sports person (including as a sports coach).

#### **245BF. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain, a Tier 1 (Exceptional Talent) Migrant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

(a) DELETED

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have spent a continuous period of 5 years lawfully in the UK, with absences from the UK of no more than 180 days in any 12 calendar months during that period, with leave as a Tier 1 (Exceptional Talent) Migrant.

(d) The applicant must have a minimum of 75 points under paragraphs 1 to 6 of Appendix A.

(e) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the date the application is made.

(f) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **Tier 1 (General) Migrants**

## **245C. Purpose**

This route is for highly skilled migrants who wish to work, or become self-employed, to extend their stay in the UK.

### **245CA. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (General) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) if the applicant has, or has had, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-Employed Lawyer, or as a Tier 1 (General) Migrant under the Rules in place before 19 July 2010, and has not been granted leave in any categories other than these under the Rules in place since 19 July 2010, the applicant must have 75 points under paragraphs 7 to 34 of Appendix A.

(c) in all cases other than those referred to in (b) above, the applicant must have 80 points under paragraphs 7 to 34 of Appendix A.

(d) The applicant must have 10 points under paragraphs 1 to 15 of Appendix B.

(e) The applicant must have 10 points under paragraphs 1 to 3 of appendix C.

(f) The applicant must have, or have last been granted, entry clearance, leave to enter or remain:

(i) as a Tier 1 (General) Migrant,

(ii) as a Highly Skilled Migrant,

(iii) as a Writer, Composer or Artist, or

(iv) as a self-employed lawyer.

(g) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

### **245CB. Period and conditions of grant**

(a) Leave to remain will be granted for a period of 2 years, to an applicant who has, or was last granted, leave as a Tier 1 (General) Migrant under the Rules in place before 6 April 2010.

(b) in all other cases, leave to remain will be granted for a period of 3 years.

(c) leave to remain under this route will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326, and

(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, and provides evidence of this degree; or

(2) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Doctor in Training, has been employed during that leave as a Doctor in Training, and provides a letter from the Postgraduate Deanery or NHS Trust employing them which confirms that they have been working in a post or programme that has been approved by the General Medical Council as a training programme or post; or

(3) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Dentist in Training, has been employed during that leave as a Dentist in Training, and provides a letter from the Postgraduate Deanery or NHS Trust employing them which confirms that they have been working in a post or programme that has been approved by the Joint Committee for Postgraduate Training in Dentistry as a training programme or post.

(1) has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based system;

(2) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Doctor in Training, and has been employed during that leave as a Doctor in Training; or

(3) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a dentist in Training, and has been employed during that leave as a Dentist in Training,

(iv) no employment as a professional sports person (including as a sports coach).

## **245CD. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain, a Tier 1 (General) Migrant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

### **Requirements:**

(a) DELETED

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) Unless the application is being made under the terms set out in Appendix S, the applicant must have spent a continuous period of 5 years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (General) Migrant, in any combination of the following categories:

(i) as a Tier 1 (General) Migrant,

(ii) as a Highly Skilled Migrant,

(iii) as a Work Permit Holder,

(iv) as an innovator,

(v) as a Self-Employed Lawyer,

(vi) as a Writer, Composer or Artist,

(vii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, or

(viii) as a Tier 2 (Intra-Company Transfer) Migrant, provided the continuous period of 5 years spent lawfully in the UK includes a period of leave as a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010.

(d) if the applicant has or has had leave as a Highly skilled Migrant, a Writer, Composer or artist, a self-employed lawyer or as a Tier 1 (General) Migrant under the Rules in place before 19 July 2010, and has not been granted leave in any categories other than these under the Rules in place since 19 July 2010, the applicant must have 75 points under paragraphs 7 to 34 of Appendix A.

(e) Where the application is being made under the terms set out in Appendix S, the applicant must have a continuous period of 4 years lawful leave in the UK, or 5 years

lawful leave in the UK if the applicant applied to the HSMP between 3 April 2006 and 7 November 2006, received an approval letter and came to or stayed in the United Kingdom on the basis of that letter, of which the most recent must have been spent with leave as a Tier 1 (General) Migrant, in any combination of the following categories:

(i) as a Tier 1 (General) Migrant;

(ii) as a Highly Skilled Migrant;

(iii) as a Work Permit Holder; or

(iv) as an innovator.

(f) Where the application is being made under the terms set out in Appendix S, the applicant must be economically active in the UK, in employment or self-employment or both.

(g) in all other cases than those referred to in (d) or (e) above, the applicant must have 80 points under paragraphs 7 to 34 of Appendix A.

(h) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made or the applicant is applying under the terms set out in Appendix S.

(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

(j) The applicant must provide the specified documents in paragraph 245CD-SD to evidence the reason for the absences set out in paragraph 245AAA, where the absence was due to a serious or compelling reason.

#### **245CD-SD Specified documents**

The specified documents referred to in paragraph 245CD(j) are:

A personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons - e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.

#### **245CE. Transitional arrangements**

This paragraph makes special provision for applicants who on 29 February 2008 are in the UK, or on 1 April 2008 are in India, and who are in the process of applying to become a Highly Skilled Migrant. It will also be relevant to applicants who have, or have

last been granted, leave to remain as a Highly Skilled Migrant, and who fall within subparagraph (c) below.

(a) If an applicant has made an application for entry clearance in India as a Highly Skilled Migrant before 1 April 2008, and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 31 March 2008 as set out in Appendix D.

(b) If an applicant has made an application for limited leave to remain as a Highly Skilled Migrant before 29 February 2008, and the application has not been decided before that date, it will be decided in accordance with these Rules in force on 28 February 2008 as set out in Appendix D.

(c) If an applicant has made an application in India for entry clearance on or after 1 April 2008, or has made an application in the UK for limited leave to remain on or after 29 February 2008, and has submitted with that application a valid Highly Skilled Migrant Programme Approval Letter, the applicant will be automatically awarded 75 points under Appendix A and 10 points under Appendix B. The applicant must separately score 10 points under Appendix C.

(ca) If an applicant has made an application other than in India for entry clearance on or after 30th June 2008, and has submitted with that application a valid Highly Skilled Migrant Programme Approval Letter, the applicant will be automatically awarded 75 points under Appendix A and 10 points under Appendix B. The applicant must separately score 10 points under Appendix C.

(d) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(e) If the requirements are met, leave to remain as a Tier 1 (General) Migrant will be granted for a period of 3 years, subject to the conditions in paragraph 245CB(c) above.

## **Tier 1 (Entrepreneur) Migrants**

### **245D. Purpose of this route and meaning of business**

(a) This route is for migrants who wish to establish, join or take over one or more businesses in the UK.

(b) For the purpose of paragraphs 245D to 245DF and paragraphs 35 to 53 of Appendix A 'business' means an enterprise as:

(i) a sole trader,

(ii) a partnership, or

(iii) a company registered in the UK.

#### **245DA. Entry to the UK**

All migrants arriving in the UK and wishing to enter as a Tier 1 (Entrepreneur) Migrant must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

#### **245DB. Requirements for entry clearance**

To qualify for entry clearance as a Tier 1 (Entrepreneur) Migrant, an applicant must meet the requirements listed below. If the applicant meets those requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

##### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) The applicant must have a minimum of 75 points under paragraphs 35 to 53 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraph 1 to 15 of Appendix B.
- (d) The applicant must have a minimum of 10 points under **paragraph 1 to 2 of** Appendix C.
- (e) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist, a Student Nurse, a Student Writing-Up a Thesis, a Student Re-Sitting an Examination or as a Tier 4 Migrant and:
  - (i) is currently being sponsored by a government or international scholarship agency, or
  - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

#### **245DC. Period and conditions of grant**

- (a) Entry clearance will be granted for a period of 3 years and four months and will be subject to the following conditions:

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
- (iii) no employment other than working for the business(es) the applicant has established, joined or taken over, and
- (iv) no employment as a professional sportsperson (including as a sports coach).

#### **245DD. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (Entrepreneur) Migrant under this rule, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have a minimum of 75 points under paragraphs 35 to 53 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 1 to 15 of Appendix B.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (e) The applicant who is applying for leave to remain must have, or have last been granted, entry clearance, leave to enter or remain:
  - (i) as a Highly Skilled Migrant,
  - (ii) as a Tier 1 (General) Migrant,
  - (iii) as a Tier 1 (Entrepreneur) Migrant,
  - (iv) as a Tier 1 (Investor) Migrant,
  - (v) as a Tier 1 (Graduate Entrepreneur) Migrant
  - (vi) as a Tier 1 (Post-Study Work) Migrant,
  - (vii) as a Businessperson,

(viii) as an Innovator,

(ix) as an Investor,

(x) as a Participant in the Fresh Talent: Working in Scotland Scheme,

(xi) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),

(xii) as a Postgraduate Doctor or Dentist,

(xiii) as a Self-employed Lawyer,

(xiv) as a Student,

(xv) as a Student Nurse,

(xvi) as a Student Re-sitting an Examination,

(xvii) as a Student Writing Up a Thesis,

(xviii) as a Work Permit Holder,

(xix) as a Writer, Composer or Artist,

(xx) as a Tier 2 Migrant

(xxi) as a Tier 4 Migrant, or

(xxii) as a Prospective Entrepreneur

(f) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist, Student Nurse, Student Re-Sitting an Examination, a Student Writing-Up a Thesis or as a Tier 4 Migrant and:

(i) is currently being sponsored by a government or international scholarship agency, or

(ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(g) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

## **245DE. Period, conditions and curtailment of grant**

(a) Leave to remain will be granted:

(i) for a period of 2 years, to an applicant who has, or was last granted, leave as a Tier 1 (Entrepreneur) Migrant,

(ii) for a period of 3 years, to any other applicant.

(b) Leave to remain under this route will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules, and

(iii) no employment, other than working for the business or businesses which he has established, joined or taken over, and

(iv) no employment as a professional sports person (including as a sports coach).

(c) Without prejudice to the grounds for curtailment in paragraph 323 of these Rules, leave to enter or remain granted to a Tier 1 (Entrepreneur) Migrant may be curtailed if, within 6 months of the date specified in paragraph (d), the applicant has not done one or more of the following things:

(i) registered with HM Revenue and Customs as self-employed,

(ii) registered a new business in which he is a director, or

(iii) registered as a director of an existing business.

(d) The date referred to in paragraph (c) is:

(i) the date of the applicant's entry to the UK, in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is evidence to establish the applicant's date of entry to the UK,

(ii) the date of the grant of entry clearance to the applicant, in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is no evidence to establish the applicant's date of entry to the UK, or

(iii) the date of the grant of leave to remain to the applicant, in any other case.

(e) Paragraph 245DE(c) does not apply where the applicant's last grant of leave prior to the grant of the leave that he currently has was as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.

## **245DF. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain as a Tier 1 (Entrepreneur) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

### **Requirements:**

(a) DELETED

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have a minimum of 75 points under paragraphs 35 to 53 of Appendix A.

(d) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA, unless the applicant is under the age of 18 or aged 65 or over at the date the application is made.

(e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

## **Tier 1 (Investor) Migrants**

### **245E. Purpose**

This route is for high net worth individuals making a substantial financial investment to the UK.

### **245EA. Entry to the UK**

All migrants arriving in the UK and wishing to enter as a Tier 1 (Investor) Migrant must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

### **245EB. Requirements for entry clearance**

To qualify for entry clearance or leave to remain as a Tier 1 (Investor) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

### **Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal.

(b) The applicant must have a minimum of 75 points under paragraphs 54 to 65 of Appendix A.

(c) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist, a Student Nurse, a Student Re-Sitting an Examination, a Student Writing-Up a Thesis or as a Tier 4 Migrant and:

(i) is currently being sponsored by a government or international scholarship agency, or

(ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to as set out in paragraph 245A above, show that this requirement has been met.

**245EC. Period and conditions of grant**

(a) Entry clearance will be granted for a period of 3 years and four months and will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no Employment as a Doctor or Dentist in Training, unless the applicant has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, and

(iv) no employment as a professional sports person (including as a sports coach).

**245ED. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (Investor) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

**Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) The applicant must have a minimum of 75 points under paragraphs 54 to 65 of Appendix A.

(c) The applicant must have, or have last been granted, entry clearance, leave to enter or remain:

- (i) as a Highly Skilled Migrant,
- (ii) as a Tier 1 (General) Migrant,
- (iii) as a Tier 1 (Entrepreneur) Migrant,
- (iv) as a Tier 1 (Investor) Migrant,
- (v) as a Tier 1 (Post-Study Work) Migrant,
- (vi) as a Businessperson,
- (vii) as an Innovator,
- (viii) as an Investor,
- (ix) as a Student,
- (x) as a Student Nurse,
- (xi) as a Student Re-Sitting an Examination,
- (xii) as a Student Writing Up a Thesis,
- (xiii) as a Work Permit Holder,
- (xiv) as a Writer, Composer or Artist,
- (xv) as a Tier 2 Migrant, or
- (xvi) as a Tier 4 Migrant.

(d) An applicant who has, or was last granted, leave as a Student Nurse, Student Re-Sitting an Examination, Student Writing-Up a Thesis or as a Tier 4 Migrant and:

- (i) is currently being sponsored by a government or international scholarship agency, or
- (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

**245EE. Period, conditions and curtailment of grant**

(a) Leave to remain will be granted:

(i) for a period of 2 years, to an applicant who has, or was last granted, leave as a Tier 1 (Investor) Migrant,

(ii) for a period of 3 years, to any other applicant.

(b) Leave to remain under this route will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, and provides evidence of this degree; or

(2) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Doctor in Training, has been employed during that leave as a Doctor in Training, and provides a letter from the Postgraduate Deanery or NHS Trust employing them which confirms that they have been working in a post or programme that has been approved by the General Medical Council as a training programme or post; or

(3) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Dentist in Training, has been employed during that leave as a Dentist in Training, and provides a letter from the Postgraduate Deanery or NHS Trust employing them which confirms that they have been working in a post or programme that has been approved by the Joint Committee for Postgraduate Training in Dentistry as a training programme or post, and

(iv) no employment as a professional sportsperson (including as a sports coach).

(c) Without prejudice to the grounds for curtailment in paragraph 323 of these Rules, leave to enter or remain as a Tier 1 (Investor) Migrant may be curtailed if:

(i) within 3 months of the date specified in paragraph (d), the applicant has not invested, or had invested on his behalf, at least £750,000 of his capital in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies other than those principally engaged in property investment, or

(ii) the applicant does not maintain the investment in (i) throughout the remaining period of his leave.

(d) The date referred to in paragraph (c) is:

(i) the date of the applicant's entry to the UK, in the case of an applicant granted entry clearance as a Tier 1 (Investor) Migrant where there is evidence to establish the applicant's date of entry to the UK,

(ii) the date of the grant of entry clearance to the applicant, in the case of an applicant granted entry clearance as a Tier 1 (Investor) Migrant where there is no evidence to establish the applicant's date of entry to the UK, or

(iii) the date of the grant of leave to remain to the applicant, in any other case.

(e) Paragraph 245EE(c) does not apply where the applicant's last grant of leave prior to the grant of the leave that he currently has was as a Tier 1 (Investor) Migrant or as an Investor.

#### **245EF. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain, a Tier 1 (Investor) Migrant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) DELETED

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have a minimum of 75 points under paragraphs 54 to 65 of Appendix A

(d) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA, unless the applicant is under the age of 18 or aged 65 or over at the date the application is made.

(e) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

### **Tier 1 (Graduate Entrepreneur) Migrants**

#### **245F. Purpose of the route and meaning of business**

(a) This route is for graduates who have been identified by Higher Education Institutions as having developed world class innovative ideas or entrepreneurial skills to extend their stay in the UK after graduation to establish one or more businesses in the UK.

(b) For the purpose of paragraphs 245F to 245FB and paragraphs 66 to 72 of Appendix A 'business' means an enterprise as:

- (i) a sole trader,
- (ii) a partnership, or
- (iii) a company registered in the UK.

#### **245FA. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) The applicant must have a minimum of 75 points under paragraphs 66 to 72 of Appendix A.

(c) The applicant must have a minimum of 10 points under paragraph 9 of Appendix B.

(d) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C. 11

(e) The applicant must have, or have last been granted, entry clearance, leave to enter or remain:

- (i) as a Tier 4 Migrant,
- (ii) as a Student,

- (iii) as a Student Nurse,
- (iv) as a Student Re-sitting an Examination,
- (v) as a Student Writing Up a Thesis,
- (vi) as a Postgraduate Doctor or Dentist, or
- (vii) as a Tier 1 (Graduate Entrepreneur) Migrant.

(f) The applicant must not have previously been granted entry clearance, leave to enter or remain as a Tier 1 (Post-Study Work) Migrant, a Participant in the Fresh Talent: Working in Scotland Scheme, or a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme).

(g) The applicant must not previously have been granted leave as a Tier 1 (Graduate Entrepreneur) Migrant on more than 1 occasion.

(h) An applicant who does not have, or was not last granted, leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant and:

(i) is currently being sponsored in his studies by a government or international scholarship agency, or

(ii) was being sponsored in his studies by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

must provide the unconditional written consent of the sponsoring government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **245FB. Period and conditions of grant**

Leave to remain will be granted for a period of 1 year and will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no employment except:

(1) working for the business(es) the applicant has established and

(2) other employment of no more than 20 hours per week, 12

(iv) no employment as a Doctor or Dentist in Training, and

(v) no employment as a professional sportsperson (including as a sports coach).

## **TIER 2 MIGRANTS**

### **Tier 2 (Intra-Company Transfer) Migrants**

#### **245G. Purpose of this route and definitions**

This route enables multinational employers to transfer their existing employees from outside the EEA to their UK branch for training purposes or to fill a specific vacancy that cannot be filled by a British or EEA worker. There are four sub-categories in this route:

(i) Short Term staff: for established employees of multi-national companies who are being transferred to a skilled job in the UK for 12 months or less that could not be carried out by a new recruit from the resident workforce;

(ii) Long Term staff: for established employees of multi-national companies who are being transferred to a skilled job in the UK which will, or may, last for more than 12 months and could not be carried out by a new recruit from the resident workforce;

(iii) Graduate Trainee: for recent graduate recruits of multi-national companies who are being transferred to the UK branch of the same organisation as part of a structured graduate training programme, which clearly defines progression towards a managerial or specialist role;

(iv) Skills Transfer: for overseas employees of multi-national companies who are being transferred to the UK branch of the same organisation in a graduate occupation to learn the skills and knowledge they will need to perform their jobs overseas, or to impart their specialist skills to the UK workforce.

#### **245GA. Entry clearance**

All migrants arriving in the UK and wishing to enter as a Tier 2 (Intra-Company Transfer) Migrant must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

#### **245GB. Requirements for entry clearance**

To qualify for entry clearance as a Tier 2 (Intra-Company Transfer) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

## Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) The applicant must have a minimum of 50 points under paragraphs 73 to 75E of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.
- (d) The applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, unless paragraph (e) below applies.
- (e) Paragraph (d) above does not apply to an applicant who:
  - (i) was not in the UK with leave as a Tier 2 migrant at any time during the above 12-month period, and provides evidence to show this; or
  - (ii) is applying under the Long Term Staff sub-category and who has, or last had entry clearance or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Short Term staff, Graduate Trainee or Skills Transfer sub-categories, or under the Rules in place before 6 April 2011.
- (f) an applicant who has, or was last granted, leave as a Student, a Student Nurse, a Student Re-Sitting an Examination, a Student Writing-Up a Thesis, a Postgraduate Doctor or Dentist or a Tier 4 Migrant and:
  - (i) is currently being sponsored by a government or international scholarship agency, or
  - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.
- (g) The applicant must be at least 16 years old.
- (h) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by one parent if that parent has sole legal responsibility for the child.
- (i) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that

they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

#### **245GC. Period and conditions of grant**

(a) if the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in either of the short Term staff or Graduate Trainee sub-categories, entry clearance will be granted for:

(i) a period equal to the length of the period of engagement plus 1 month, or

(ii) a period of 1 year, whichever is the shorter.

(b) if the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category, entry clearance will be granted for:

(i) a period equal to the length of the period of engagement plus 1 month, or

(ii) a period of 6 months, whichever is the shorter.

(c) if the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category, entry clearance will be granted for:

(i) a period equal to the length of the period of engagement plus 1 month, or

(ii) a period of 3 years and 1 month, whichever is the shorter.

(d) entry clearance will be granted with effect from 14 days before the date that the Certificate of Sponsorship Checking Service records as the start date for the applicant's employment in the UK, unless entry clearance is being granted less than 14 days before that date, in which case it will be granted with immediate effect.

(e) Entry clearance will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326, and

(iii) no employment except:

(1) working for the sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, subject to any notification of a change to the details of that employment, other than prohibited changes as defined in paragraph 323AA,(2) supplementary employment, and

(3) voluntary work.

## **245GD. Requirements for leave to remain**

To qualify for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant under this rule, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

### **Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category:

(i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as either:

(1) a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category, or

(2) a Tier 2 (Intra-Company Transfer) Migrant in the established Staff sub-category under the Rules in place before 6 April 2011, or

(3) a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or

(4) a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an Intra-Company Transfer, or

(5) as a representative of an overseas Business, and

(ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.

(c) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Short Term Staff sub-category:

(i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Short Term Staff sub-category, and

(ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.

(d) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category:

(i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category, and

(ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.

(e) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category:

(i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the skills Transfer sub-category, and

(ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.

(f) in all cases the applicant must have a minimum of 50 points under paragraphs 73 to 75E of Appendix A.

(g) if the applicant is seeking a grant of leave to remain that would extend his total stay as a Tier 2 (Intra-Company Transfer) Migrant beyond 3 years, the applicant must have a minimum of 10 points under paragraphs 1 to 16 of Appendix B.

(h) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.

(i) The applicant must be at least 16 years old.

(j) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian or by one parent if that parent has sole legal responsibility for the child.

(k) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.

(l) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **245GE. Period and conditions of grant**

(a) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in either the Short Term Staff or Graduate Trainee sub-categories, leave to remain will be granted for:

(i) the length of the period of engagement plus 14 days, or

(ii) the difference between the period of leave that the applicant has already been granted, beginning with his last grant of entry clearance as a Tier 2 (Intra-Company Transfer) Migrant, and 12 months,

whichever is the shorter. If the calculation of period of leave comes to zero or a negative number, leave to remain will be refused.

(b) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category, leave to remain will be granted for:

(i) the length of the period of engagement plus 14 days, or

(ii) the difference between the period of leave that the applicant has already been granted, beginning with his last grant of entry clearance as a Tier 2 (Intra-Company Transfer) Migrant, and 6 months,

whichever is the shorter. If the calculation of period of leave comes to zero or a negative number, leave to remain will be refused.

(c) in the cases set out in paragraph (d) below, leave to remain will be granted for:

(i) a period equal to the length of the period of engagement plus 14 days, or

(ii) a period of 3 years plus 14 days,

whichever is the shorter.

(d) The cases referred to in paragraph (c) are those where the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category, and was last granted:

(i) entry clearance, leave to enter or leave to remain as a Qualifying Work Permit Holder, or

(ii) leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, provided:

(1) he previously had leave as a Qualifying Work Permit Holder,

(2) at some time during that period of leave as a Qualifying Work Permit Holder he was granted leave to remain as a Tier 2 (Intra-Company Transfer) Migrant,

(3) he has not been granted entry clearance in this or any other route since his last grant of leave as a Qualifying Work Permit Holder, and

(4) he is still working for the same employer named on the Work Permit document which led to his last grant of leave as a Qualifying Work Permit Holder.

(e) in the cases set out in paragraph (f) below, leave to remain will be granted for:

(i) a period equal to the length of the period of engagement plus 14 days, or

(ii) a period of 2 years,

whichever is the shorter.

(f) The cases referred to in paragraph (e) are those where:

(i) the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category, and

(ii) the applicant previously had leave as a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2011; and

(iii) the applicant has not been granted entry clearance in this or any other route since the grant of leave referred to in (ii) above; and

(iv) paragraphs (c) to (d) do not apply.

(g) in the cases set out in paragraph (h) below, leave to remain will be granted for:

(i) a period equal to the length of the period of engagement plus 14 days, or

(ii) a period of 2 years, or

(iii) the difference between 9 years and the continuous period immediately before the date of application during which the applicant has had leave as a Tier 2 (Intra-Company Transfer) Migrant, or been in the UK without leave,

whichever is the shorter.

(h) The cases referred to in paragraph (g) are those where:

(i) the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category, and

(ii) the Certificate of Sponsorship Checking Service entry records that the applicant's gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 75 of Appendix A) to be paid by the Sponsor is £150,000 or higher, and

(iii) paragraphs (c) to (f) do not apply.

(i) if the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category and paragraphs (c) to (h) do not apply, leave to remain will be granted for:

(i) a period equal to the length of the period of engagement plus 14 days, or

(ii) a period of 2 years, (iii) the difference between the period that the applicant has already spent in the UK since his last grant of entry clearance as a Tier 2 (Intra-Company Transfer) Migrant and 5 years,

whichever is the shorter. if the calculation of period of leave comes to zero or a negative number, leave to remain will be refused.

(j) in addition to the periods in paragraphs (a) to (i), leave to remain will be granted for the period between the date that the application is decided and the date that the Certificate of Sponsorship Checking Service records as the start date of employment in the UK, provided this is not a negative value.

(i) leave to remain will be granted subject to the following conditions: (i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326, and

(iii) no employment except:

(1) working for the sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, subject to any notification of a change to the details of that employment, other than prohibited changes as defined in paragraph 323AA, (2) supplementary employment, and

(3) voluntary work.

#### **245GF. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. if the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) DELETED

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have spent a continuous period of 5 years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 2 (Intra-Company Transfer) Migrant, in any combination of the following categories:

(i) as a Tier 2 (Intra-Company Transfer) Migrant,

(ii) as a Qualifying Work Permit Holder, or

(iii) as a representative of an overseas Business.

(d) The continuous period of 5 years referred to in paragraph (c) must include a period of leave as:

(i) a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or

(ii) a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an Intra-Company Transfer.

(e) The sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing that:

(i) he still requires the applicant for the employment in question, and

(ii) he is paid at or above the appropriate rate for the job as stated in the Codes of Practice in Appendix J.

(f) The applicant provides the specified documents in paragraph 245GF-SD to evidence the sponsor's certification in subsection (e) (ii) and to evidence the reason for the absences set out in paragraph 245AAA.

(g) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the date the application is made.

(h) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

### **245GF-SD Specified documents**

The specified documents referred to in paragraph 245GF(f) are set out in A and B below:

A. Either a payslip and a personal bank or building society statement, or a payslip and a building society pass book.

(a) Payslips must be:

(i) the applicant's most recent payslip,

(ii) dated no earlier than one calendar month before the date of the application, and

(iii) either:

(1) an original payslip,

(2) on company-headed paper, or

(3) accompanied by a letter from the applicant's Sponsor, on company headed paper and signed by a senior official, confirming the payslip is authentic.

(b) Personal bank or building society statements must:

(i) be the applicant's most recent statement,

(ii) be dated no earlier than one calendar month before the date of the application,

(iii) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the date of the statement,

(4) the financial institution's name,

(5) the financial institution's logo, and

(6) transactions by the Sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245GF-SD A.(a)

(iv) be either:

(1) printed on the bank's or building society's letterhead,

(2) electronic bank or building society statements from an online account, accompanied by a supporting letter from the bank or building society, on company headed paper, confirming the statement provided is authentic, or

(3) electronic bank or building society statements from an online account, bearing the official stamp of the bank or building society on every page,

and

(v) not be mini-statements from automatic teller machines (ATMs).

(c) Building society pass books must

(i) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the financial institution's name,

(4) the financial institution's logo, and

(5) transactions by the sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245GF-SD A.(a)

and

(ii) be either:

(1) the original pass book, or

(2) a photocopy of the pass book which has been certified by the issuing building society on company headed paper, confirming the statement provided is authentic.

B. A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons - e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.

**Tier 2 (General) Migrants, Tier 2 (Minister of Religion) Migrants and Tier 2 (Sportsperson) Migrants**

## **245H. Purpose of these routes and definitions**

These routes enable UK employers to recruit workers from outside the EEA to fill a particular vacancy that cannot be filled by a British or EEA worker.

### **245HA. Entry clearance**

All Migrants arriving in the UK and wishing to enter as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant must have a valid entry clearance for entry under the relevant one of these routes. If they do not have a valid entry clearance, entry will be refused.

### **245HB. Requirements for entry clearance**

To qualify for entry clearance as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) If applying as a Tier 2 (General) Migrant, the applicant must have a minimum of 50 points under paragraphs 76 to 84A of Appendix A.
- (c) If applying as a Tier 2 (Minister of religion) Migrant, the applicant must have a minimum of 50 points under paragraphs 85 to 92 of Appendix A.
- (d) If applying as a Tier 2 (sportsperson) Migrant, the applicant must have a minimum of 50 points under paragraphs 93 to 100 of Appendix A.
- (e) The applicant must have a minimum of 10 points under paragraphs 1 to 18 of Appendix B.
- (f) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.
- (g) The applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, unless the applicant was not in the UK with leave as a Tier 2 Migrant during this period, and provides evidence to show this.
- (h) An applicant who has, or was last granted, leave as a Student, a Student Nurse, a Student Re-Sitting an Examination, a Student Writing-Up a Thesis, a Postgraduate Doctor or Dentist or a Tier 4 Migrant and:

- (i) is currently being sponsored by a government or international scholarship agency, or
- (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

- (i) The applicant must be at least 16 years old.
- (j) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by one parent if that parent has sole legal responsibility for the child.
- (k) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.
- (l) If the Sponsor is a limited company, the applicant must not own more than 10% of its shares.

#### **245HC. Period and conditions of grant**

(a) Entry clearance will be granted for:

- (i) a period equal to the length of the period of engagement plus 1 month, or
- (ii) a period of 3 years and 1 month,

whichever is the shorter.

(d) Entry clearance will be granted with effect from 14 days before the date that the Certificate of Sponsorship Checking Service records as the start date for the applicant's employment in the UK, unless entry clearance is being granted less than 14 days before that date, in which case it will be granted with immediate effect.

(e) Entry clearance will be subject to the following conditions:

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
- (iii) no employment except:

(1) working for the sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, subject to any notification of a change to the details of that employment, other than prohibited changes as defined in paragraph 323AA,(2) supplementary employment,

(3) voluntary work, and

(4) if the applicant is applying as a Tier 2 (Sportsperson) Migrant, employment as a sportsperson for his national team while his national team is in the UK.

(f) (i) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 76 to 79D of Appendix A shall be granted entry clearance as a Tier 2 (General) Migrant.

(ii) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 85 to 92 of Appendix A shall be granted entry clearance as a Tier 2 (Minister of Religion) Migrant.

(iii) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 93 to 100 of Appendix A shall be granted entry clearance as a Tier 2 (Sportsperson) Migrant.

#### **245HD. Requirements for leave to remain**

To qualify for leave to remain as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant under this rule, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) the applicant must:

(i) have, or have last been granted, entry clearance, leave to enter or leave to remain as:

(1) a Tier 1 Migrant,

(2) a Tier 2 Migrant,

(3) a Highly Skilled Migrant,

(4) an Innovator,

(5) a Jewish Agency Employee,

(6) a Member of the Operational Ground Staff of an Overseas-owned Airline,

(7) a Minister of Religion, Missionary or Member of a Religious Order,

- (8) a Participant in the Fresh Talent: Working in Scotland Scheme,
- (9) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
- (10) a Qualifying Work Permit Holder,
- (11) a Representative of an Overseas Business
- (12) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
- (13) a Tier 5 (Temporary Worker) Migrant, or
- (14) the partner of a Relevant Points Based System Migrant if the relevant Points Based System Migrant is a Tier 4 Migrant,

or

(ii) have current entry clearance, leave to enter or leave to remain which has not expired, as:

- (1) a Tier 4 Migrant,
- (2) a Student,
- (3) a Student Nurse,
- (4) a Student Re-Sitting an Examination,
- (5) a Person Writing Up a Thesis,
- (6) an Overseas Qualified Nurse or Midwife,
- (7) a Postgraduate Doctor or Dentist, or
- (8) a Student Union Sabbatical Officer.

(c) An applicant who has, or was last granted leave as a Tier 2 (Intra-Company Transfer) Migrant must:

(i) have previously had leave as a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2010, or in the Established Staff sub-category under the Rules in place before 6 April 2011,

(ii) not have been granted entry clearance in this or any other route since the grant of leave referred to in (i) above; and

(iii) not be applying to work for the same Sponsor as sponsored him when he was last granted leave.

(d) An applicant under the provisions in (b)(ii) above must meet the following requirements:

(i) The applicant must have completed and passed:

(1) a UK recognised bachelor or postgraduate degree (not a qualification of equivalent level which is not a degree),

(2) a UK Postgraduate Certificate in Education or Professional Graduate Diploma of Education (not a qualification of equivalent level),

or the applicant must have completed a minimum of 12 months study in the UK towards a UK PhD.

(ii) The applicant must have studied for the course in (d)(i) at a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.

(iii) The applicant must have studied the course referred to in (d)(i) during:

(1) his last grant of leave, or

(2) a period of continuous leave which includes his last grant of leave.

(iv) The applicant's periods of UK study and/or research towards the course in (i) must have been undertaken whilst he had entry clearance, leave to enter or leave to remain in the UK that was not subject to a restriction preventing him from undertaking that course of study and/or research.

(v) If the institution studied at is removed from the Tier 4 Sponsor Register, the applicant's qualification must not have been obtained on or after the date of removal from the Sponsor Register.

(vi) If the applicant:

(1) is currently being sponsored by a government or international scholarship agency, or

(2) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(vii) The applicant must provide an original degree certificate, academic transcript or an academic reference on official headed paper of the institution, which clearly shows:

(1) The applicant's name,

(2) the course title/award,

(3) the course duration (except in the case of a degree certificate), and

(4) unless the course is a PhD course, the date of course completion and pass (or the date of award in the case of a degree certificate).

(e) an applicant who was last granted leave as a Tier 5 (Temporary Worker) Migrant must have been granted such leave in the Creative and Sporting sub-category of Tier 5 in order to allow the applicant to work as a professional footballer, and the applicant must be applying for leave to remain as a Tier 2 (Sportsperson) Migrant.

(f) If applying as a Tier 2 (General) Migrant, the applicant must have a minimum of 50 points under paragraphs 76 to 79D of Appendix A.

(g) If applying as a Tier 2 (Minister of Religion) Migrant, the applicant must have a minimum of 50 points under paragraphs 85 to 92 of Appendix A.

(h) If applying as a Tier 2 (Sportsperson) Migrant, the applicant must have a minimum of 50 points under paragraphs 93 to 100 of Appendix A.

(i) The applicant must have a minimum of 10 points under paragraphs 1 to 16 of Appendix B.

(j) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.

(k) The applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, unless:

(i) the applicant's last grant of leave was as a Tier 2 Migrant, or

(ii) the applicant was not in the UK with leave as a Tier 2 Migrant during this period, and provides evidence to show this.

(l) The applicant must be at least 16 years old.

(m) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(n) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.

(o) if the sponsor is a limited company, the applicant must not own more than 10% of its shares.

(p) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **245HE. Period and conditions of grant**

(a) If the applicant:

(i) previously had leave under the Rules in place before 6 April 2011 as:

- (1) a Tier 2 (General) Migrant,
- (2) a Tier 2 (Minister of Religion) Migrant,
- (3) a Tier 2 (Sportsperson) Migrant,
- (4) a Jewish Agency Employee,
- (5) a Member of the Operational Ground Staff of an Overseas-owned Airline,
- (6) a Minister of Religion, Missionary or Member of a Religious Order,
- (7) a Qualifying Work Permit Holder, or
- (8) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,

and

(ii) has not been granted entry clearance as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant under the Rules in place from 6 April 2011, and

(iii) has not been granted entry clearance, leave to enter or leave to remain in any other category since the grant of leave referred to in (i) above,

leave to remain will be granted as set out in paragraph (d) below.

(b) In all other cases, leave to remain will be granted as set out in paragraph (e) below.

(c) In paragraph (e) below, X refers to the continuous period of time, during which the applicant:

(i) has had entry clearance, leave to enter or leave to remain as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant; or

(ii) has been in the UK without leave following leave in one of these categories.

(d) in the cases set out in paragraph (a) above, leave to remain will be granted for:

(i) the length of the period of engagement plus 14 days, or

(ii) a period of 3 years plus 14 days,

whichever is the shorter.

(e) If paragraph (a) does not apply, leave to remain will be granted for:

(i) the length of the period of engagement plus 14 days,

(ii) a period of 3 years plus 14 days, or

(iii) a period equal to 6 years less X,

whichever is the shorter. If the calculation of the period of leave comes to zero or a negative number, leave to remain will be refused.

(f) in addition to the periods in paragraphs (d) and (e), leave to remain will be granted for the period between the date that the application is decided and the date that the Certificate of Sponsorship Checking Service records as the start date of employment in the UK, provided this is not a negative value.

(g) leave to remain will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules, and

(iii) no employment except:

(1) working for the sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, subject to any notification of a change to the details of that employment, other than prohibited changes as defined in paragraph 323AA, (2) supplementary employment,

(3) voluntary work,

(4) until the start date of the period of engagement, any employment which the applicant was lawfully engaged in on the date of his application, and

(5) if the applicant is applying as a Tier 2 (Sportsperson) Migrant, employment as a sportsperson for his national team while his national team is in the UK.

(h) (i) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 76 to 79D of Appendix A shall be granted leave to remain as a Tier 2 (General) Migrant.

(ii) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 85 to 92 of Appendix A shall be granted leave to remain as a Tier 2 (Minister of Religion) Migrant.

(iii) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 93 to 100 of Appendix A shall be granted leave to remain as a Tier 2 (Sportsperson) Migrant.

#### **245HF. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) DELETED.

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have spent a continuous period of 5 years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 2 Migrant, in any combination of the following categories:

(i) as a Member of the Operational Ground Staff of an Overseas-owned Airline,

(ii) as a Minister of Religion, Missionary or Member of a Religious Order,

(iii) as a Qualifying Work Permit Holder,

(iv) as a Representative of an Overseas Business,

(v) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,

(vi) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant,

(vii) as a Highly Skilled Migrant,

(viii) as an innovator,

(ix) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, or

(x) as a Tier 2 (Intra-Company Transfer) Migrant, provided the continuous period of 5 years spent lawfully in the UK includes a period of leave as:

(1) a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or

(2) a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an Intra-Company Transfer.

(d) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing that:

(i) he still requires the applicant for the employment in question, and

(ii) in the case of a Tier 2 (General) Migrant applying for settlement, that they are paid at or above the appropriate rate for the job as stated in the Codes of Practice in Appendix J.

(e) The applicant provides the specified documents in paragraph 245HF-SD to evidence the sponsor's certification in subsection (d)(ii) and to evidence the reason for the absences set out in paragraph 245AAA.

(f) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.

(g) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **245HF-SD Specified documents**

The specified documents referred to in paragraph 245HF(e) are set out in A and B below:

A. Either a payslip and a personal bank or building society statement, or a payslip and a building society pass book.

(a) Payslips must be:

(i) the applicant's most recent payslip,

(ii) dated no earlier than one calendar month before the date of the application, and

(iii) either:

(1) an original payslip,

(2) on company-headed paper, or

(3) accompanied by a letter from the applicant's Sponsor, on company headed paper and signed by a senior official, confirming the payslip is authentic.

(b) Personal bank or building society statements must:

(i) be the applicant's most recent statement,

(ii) be dated no earlier than one calendar month before the date of the application,

(iii) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the date of the statement,

(4) the financial institution's name,

(5) the financial institution's logo, and

(6) transactions by the Sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245HF-SD A.(a)

(iv) be either:

(1) printed on the bank's or building society's letterhead,

(2) electronic bank or building society statements from an online account, accompanied by a supporting letter from the bank or building society, on company headed paper, confirming the statement provided is authentic, or

(3) electronic bank or building society statements from an online account, bearing the official stamp of the bank or building society on every page,

and

(v) not be mini-statements from automatic teller machines (ATMs).

(c) Building society pass books must

(i) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the financial institution's name,

(4) the financial institution's logo, and

(5) transactions by the sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245HF-SD A.(a)

and

(ii) be either:

(1) the original pass book, or

(2) a photocopy of the pass book which has been certified by the issuing building society on company headed paper, confirming the statement provided is authentic.

B. A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons - e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.

## **Tier 5 (Youth Mobility Scheme) Temporary Migrants**

### **245ZI. Purpose of this route**

This route is for sponsored young people from participating countries and territories who wish to live and work temporarily in the UK.

### **245ZJ. Entry clearance**

All migrants arriving in the UK and wishing to enter as a Tier 5 (Youth Mobility Scheme) Temporary Migrant must have a valid entry clearance for entry under this route. If a migrant does not have a valid entry clearance, entry will be refused.

### **245ZK. Requirements for entry clearance**

To qualify for entry clearance as a Tier 5 (Youth Mobility Scheme) Temporary Migrant, an applicant must meet the requirements listed below. However, whether or not the requirements listed below are met, if a citizen of a country or the rightful holder of a passport issued by a territory listed in Appendix G makes an application for entry clearance which, if granted, would mean that the annual allocation of places under this route as specified in Appendix G for citizens of that country or rightful holders of passports issued by that territory would be exceeded, the application will be refused. The applicant will also be refused if the requirements listed below are not met.

### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal; and
- (b) The applicant must be:
- (i) a citizen of a country or rightful holder of a passport issued by a territory listed in Appendix G to these Rules, or
  - (ii) a British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas), as defined by the British Nationality Act 1981 and must provide a valid passport to show that this requirement has been met; and
- (c) The applicant must be sponsored by his country of citizenship or the territory of which he is a rightful passport holder as follows:
- (i) If the applicant is a citizen of a country or the rightful holder of a passport issued by a territory that does not have Deemed Sponsorship Status, the applicant must hold a valid Certificate of Sponsorship issued by that country or territory and must use that Certificate of Sponsorship in support of an application lodged in the country or territory of issue; or
  - (ii) If the applicant is a citizen of a country or the rightful holder of a passport issued by a territory that has Deemed Sponsorship Status, his valid passport issued by the country or territory holding such status will stand as evidence of sponsorship and the application for leave may be made at any post worldwide; and
- (ca) A Certificate of Sponsorship will only be considered to be valid if:
- (i) the country or territory issued it to the applicant no more than 3 months before the application for entry clearance is made, and
  - (ii) it has not have been cancelled by the country or territory since it was issued.
- (d) The applicant must have a minimum of 40 points under paragraphs 101 to 104 of Appendix A; and
- (e) The applicant must have a minimum of 10 points under paragraphs 6 to 7 of Appendix C; and
- (f) The applicant must have no children under the age of 18 who are either living with him or for whom he is financially responsible; and
- (g) The applicant must not previously have spent time in the UK as a Working Holidaymaker or a Tier 5 (Youth Mobility Scheme) Temporary Migrant.

**245ZL. Period and conditions of grant**

Entry clearance will be granted for a period of 2 years subject to the following conditions:

- (a) no recourse to public funds,
- (b) registration with the police, if this is required by paragraph 326 of these Rules,
- (c) no employment as a professional sportsperson (including as a sports coach), and
- (d) no employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, and provides evidence of this degree.
- (e) no self employment, except where the following conditions are met:
  - (i) the migrant has no premises which he owns, other than his home, from which he carries out his business,
  - (ii) the total value of any equipment used in the business does not exceed £5,000, and
  - (iii) the migrant has no employees.

## **Tier 5 (Temporary Worker) Migrants**

### **245ZM. Purpose of this route and definitions**

(a) 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.

(b) For the purposes of paragraphs 245ZM to 245ZS and paragraphs 105 to 112 of Appendix A:

a migrant has "consecutive engagements" if:

- (i) more than one Certificate of Sponsorship reference number has been allocated in respect of the migrant,
- (ii) there is no gap of more than 14 days between any of the periods of engagement, and
- (iii) all the Certificate of Sponsorship Checking Service references record that the migrant is being sponsored in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route.

"Period of engagement" means a period beginning with the employment start date as recorded on the Certificate of Sponsorship Checking Service entry which relates to the Certificate of Sponsorship reference number for which the migrant was awarded points under paragraphs 105 to 111 of Appendix A, and ending on the employment end date as recorded in the same entry.

#### **245ZN. Entry clearance**

(a) Subject to paragraph (b), all migrants arriving in the UK and wishing to enter as a Tier 5 (Temporary Worker) Migrant must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

(b) A migrant arriving in the UK and wishing to enter as a Tier 5 (Temporary Worker) Migrant who does not have a valid entry clearance will not be refused entry if the following conditions are met:

(i) the migrant is not a visa national,

(ii) the Certificate of Sponsorship reference number provided by the migrant leading to points being obtained under Appendix A links to an entry in the Certificate of Sponsorship Checking Service recording that their Sponsor has sponsored them in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route,

(iii) if the migrant has consecutive engagements, the total length of all the periods of engagement, together with any gap between those engagements, is 3 months or less,

(iv) if the migrant does not have consecutive engagements, the total length of the period of engagement is 3 months or less, and

(v) the migrant meets the requirements in paragraph 245ZO below.

#### **245ZO. Requirements for entry clearance or leave to enter**

To qualify for entry clearance or, as the case may be, leave to enter, as a Tier 5 (Temporary Worker) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal.

(b) The applicant must have a minimum of 30 points under paragraphs 105 to 112 of Appendix A.

(c) The applicant must have a minimum of 10 points under paragraphs 8 to 9 of Appendix C.

(d) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(e) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

(f) An applicant being sponsored in the international agreement sub-category of Tier 5 (Temporary Workers) as a private servant in a diplomatic household must:

(i) be no less than 18 years of age at the time of application, and

(ii) provide evidence of agreed written terms and conditions of employment in the UK with his employer including specifically that the applicant will be paid in accordance with the National Minimum Wage Act 1998 and regulations made under that Act, in the form set out in Appendix Q.

(g) The employer referred to in (f) (ii) must be:

(i) a diplomat, or

(ii) an employee of an international organisation recognised by Her Majesty's Government, who enjoys certain privileges or immunity under UK or international law.

(h) Where the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored as a Contractual Service Supplier in the International Agreement sub-category of the Tier 5 (Temporary Worker) Migrant route, the grant of leave to enter will not result in the applicant being granted leave to enter or remain as a Contractual Service Supplier under the International Agreement sub-category of the Tier 5 (Temporary Worker) Migrant route for a cumulative period exceeding 6 months in any 12 month period ending during the period of leave to enter requested.

#### **245ZP. Period and conditions of grant**

(a) Where paragraph 245ZN(b) applies and the applicant has consecutive engagements, leave to enter will be granted for:

(i) a period commencing not more than 14 days before the beginning of the first period of engagement and ending 14 days after the end of the last period of engagement, or

(ii) 3 months

whichever is the shorter.

(b) Where paragraph 245ZN(b) applies and the applicant does not have consecutive engagements, leave to enter will be granted for:

(i) a period commencing not more than 14 days before the beginning of the period of engagement and ending 14 days after the end of that period of engagement, or

(ii) 3 months

whichever is the shorter.

(c) Where paragraph 245ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored in the Creative and Sporting subcategory, the Government Authorised Exchange subcategory for a Work Experience Programme, or the Charity Workers sub-category of the Tier 5 (Temporary Worker) Migrant route, entry clearance or leave to enter will be granted for:

(i) a period commencing 14 days before the beginning of the period of engagement (or of the first period of engagement, where the applicant has consecutive engagements) and ending 14 days after the end of that period of engagement (or of the last period of engagement, where the applicant has consecutive engagements), or

(ii) 12 months

whichever of (i) or (ii) is the shorter.

(d) Where paragraph 245ZN (b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored in the religious workers, government authorised exchange or, other than as a Contractual Service Supplier, in the international agreement subcategory of the Tier 5 (Temporary Worker) Migrant route, entry clearance will be granted for:

(i) a period commencing 14 days before the beginning of the period of engagement and ending 14 days after the end of that period of engagement, or

(ii) 2 years,

whichever is the shorter.

(e) Where paragraph 245ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under

Appendix A records that the applicant is being sponsored as a Contractual Service Supplier in the International Agreement sub-category of the Tier 5 (Temporary Worker) Migrant route, entry clearance will be granted for:

(i) a period commencing 14 days before the beginning of the period of engagement and ending 14 days after the end of that period of engagement, or

(ii) 6 months,

whichever is the shorter.

(f) Leave to enter and entry clearance will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police if this is required by paragraph 326 of these Rules, and

(iii) no employment except:

(1) unless paragraph (2) applies, working for the person who for the time being is the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do for that Sponsor,

(2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the Government Authorised Exchange subcategory of Tier 5 (Temporary Workers), the work, volunteering or job shadowing authorised by the Sponsor and that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do,

(3) supplementary employment except in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the international agreement sub-category, to work as a private servant in a diplomatic household or as a Contractual Service Supplier, and

(4) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the creative and sporting subcategory of Tier 5 (Temporary Workers), employment as a sports person for his national team while his national team is in the UK and Temporary Engagement as a Sports Broadcaster.

(iv) in the case of an applicant whom the Certificate of Sponsorship Checking Service records as being sponsored in the international agreement sub-category of Tier 5 (Temporary Workers), to work as a private servant in a diplomatic household, the employment in (iii)(1) above means working only in the household of the employer recorded by the Certificate of Sponsorship Checking Service.

#### **245ZQ. Requirements for leave to remain**

To qualify for leave to remain as a Tier 5 (Temporary Worker) Migrant under this rule, an applicant must meet the requirements listed below. Subject to paragraph 245ZR(a), if the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

**Requirements:**

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) The applicant must have, or have last been granted.

(i) entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant, or

(ii) entry clearance, leave to enter or leave to remain as a Sports Visitor or Entertainer Visitor, provided:

(1) the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application shows that he is being sponsored in the creative and sporting subcategory; and

(2) the Certificate of Sponsorship reference number was allocated to the applicant before he entered the UK as a Sports Visitor or Entertainer Visitor, or

(iii) entry clearance, leave to enter or leave to remain as an Overseas Government Employee, provided

(a) the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application shows he is being sponsored in the international agreement sub-category, and

(b) the applicant is continuing employment with the same overseas government or international organisation for which earlier leave was granted, or

(iv) entry clearance, leave to enter or leave to remain as a Qualifying Work Permit Holder, provided, or

(a) the applicant was previously issued with a work permit for the purpose of employment by an overseas government, and

(b) the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application shows he is being sponsored in the international agreement sub-category, and

(c) the applicant is continuing employment with the same overseas government or international organisation for which earlier leave was granted

(v) entry clearance, leave to enter or leave to remain as a Qualifying Work Permit Holder, provided

(1) the applicant was previously issued with a work permit for the purpose of employment as a sponsored researcher, and

(2) the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application shows he is being sponsored in the government authorised exchange sub-category, and

(3) the applicant is continuing employment with the same organisation for which his most recent period of leave was granted, or

(vi) entry clearance, leave to enter or leave to remain as a Student, a Student Re-Sitting an Examination, a Person Writing Up a Thesis, a Postgraduate Doctor or Dentist, a Student Nurse, a Student Union Sabbatical Officer, or a Tier 4 (General) Migrant, provided the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application confirms:

(1) he is being sponsored in the government authorised exchange sub-category, and

(2) he lawfully obtained a UK recognised bachelor or postgraduate degree (not a qualification of equivalent level which is not a degree) during his last grant of leave, and

(3) he is being sponsored to undertake a period of postgraduate professional training or work experience which is required to obtain a professional qualification or professional registration in the same professional field as the qualification in (2) above, and

(4) that he will not be filling a permanent vacancy, such that the employer he is directed to work for by the Sponsor does not intend to employ him in the UK once the training or work experience for which he is being sponsored has concluded, and

and the applicant provides an original degree certificate, academic transcript or an academic reference on official headed paper of the institution, which clearly shows his name, the course title/award, and the date of course completion and pass (or the date of award in the case of a degree certificate).

(c) The applicant must have a minimum of 30 points under paragraphs 105 to 112 of Appendix A.

(d) The applicant must have a minimum of 10 points under paragraphs 8 to 9 of Appendix C.

(e) The Certificate of Sponsorship Checking Service entry to which the Certificate of Sponsorship reference number for which points under Appendix A were awarded relates must:

(i) record that the applicant is being sponsored in the same subcategory of the Tier 5 (Temporary Worker) Migrant route as the one in which he was being sponsored to work for when he was last granted entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant, and

(ii) in the case of an applicant who the Certificate of Sponsorship Checking Service records as being sponsored in the international agreement sub-category of Tier 5 (Temporary Workers), to work as a private servant in a diplomatic household, who entered the UK with a valid entry clearance in that capacity under the Rules in place from 6 April 2012, record that the applicant is being sponsored to work for the same employer as set out in paragraph 245ZO (g) who he was being sponsored to work for when he was last granted entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant, and the applicant must have continued to work for that employer throughout his period of leave and must provide evidence of agreed written terms and conditions of employment in the UK with his employer in the form set out in Appendix Q.

(f) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(g) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.

(h) An applicant who has, or was last granted, leave as a Student, a Student Re-Sitting an Examination, a Person Writing Up a Thesis, a Postgraduate Doctor or Dentist, a Student Nurse, a Student Union Sabbatical Officer, or a Tier 4 (General) Migrant and:

(i) is currently being sponsored by a government or international scholarship agency, or

(ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(i) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

(j) Where the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored as a Contractual Service Supplier in the International Agreement subcategory of the Tier 5 (Temporary Worker) Migrant route, the grant of leave to remain will not result in the applicant being granted leave to enter or remain as a Contractual Service Supplier under the international agreement sub-category of the Tier 5 (Temporary

Worker) Migrant route for a cumulative period exceeding 6 months in any 12 month period ending during the period of leave to remain requested.

### **245ZR. Period and conditions of grant**

(a) If any calculation of period of leave comes to zero or a negative number, leave to remain will be refused.

(b) Subject to paragraphs (c) to (f) below, leave to remain will be granted for:

(i) the length of the period of engagement, as recorded in the Certificate of Sponsorship Checking Service entry, plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement) or

(ii) the difference between the period that the applicant has already spent in the UK since his last grant of entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant and:

(1) 12 months, if he is being sponsored in the Government Authorised exchange subcategory for a Work Experience Programme where the initial grant of leave was granted under the Rules in place from 6 April 2012, the Creative and Sporting subcategory, or the Charity Workers subcategory, or

(2) 2 years, if he is being sponsored in the Government Authorised Exchange subcategory where the initial grant of leave was made under the Rules in place before 6 April 2012 or for a Research Programme or Training Programme, the Religious Workers subcategory, or the International Agreement subcategory other than as a Contractual Service Supplier or

(3) 6 months, if the applicant is being sponsored in the International Agreement subcategory and is a Contractual Service Supplier,

whichever of (i) or (ii) is the shorter.

(c) Where the provisions in paragraph 245ZQ(b)(ii) apply, the migrant will be granted leave to remain for:

(i) the period of engagement plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement), or

(ii) 12 months

whichever of (i) or (ii) is the shorter.

(d) Where the Certificate of Sponsorship Checking Service reference records that the migrant is being sponsored in the international agreement subcategory of the Tier 5 (Temporary Worker) Migrant route as an overseas government employee or a private servant in a diplomatic household where in the case of the latter he entered the UK with a valid entry clearance in that capacity under the Rules in place before 6 April 2012, leave to remain will be granted for:

(i) the period of engagement plus 14 days, or

(ii) 12 months,

whichever of (i) or (ii) is the shorter, unless at the date of the application for leave to remain the applicant has spent more than 5 years continuously in the UK with leave as a Tier 5 (Temporary Worker) Migrant, in which case leave to remain will be granted for:

(iii) the period of engagement plus 14 days, or

(iv) a period equal to 6 years less X, where X is the period of time, beginning with the date on which the applicant was last granted entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant, that the applicant has already spent in the UK as a Tier 5 (Temporary Worker) Migrant

whichever of (iii) or (iv) is the shorter.

(e) Where the Certificate of Sponsorship Checking Service reference records that the applicant is being sponsored in the international agreement sub-category of the Tier 5 (Temporary Worker) Migrant route as a private servant in a diplomatic household to work in a domestic capacity in the household of a named individual and where he entered the UK with a valid entry clearance in that capacity under the Rules in place from 6 April 2012, leave to remain will be granted for:

(i) the period of engagement plus 14 days, or

(ii) 12 months,

whichever of (i) or (ii) is the shorter, unless at the date of the application the applicant has spent more than 4 years continuously in the UK with leave as a Tier 5 (Temporary Worker) migrant, in which case leave will be granted for:

(iii) the period of engagement plus 14 days, or

(iv) a period equal to 5 years less X, where X is the period of time, beginning with the date on which the applicant was first granted entry clearance as a Tier 5 (Temporary Worker) Migrant, that the applicant has already spent in the UK as a Tier 5 (Temporary Worker) Migrant

whichever of (iii) or (iv) is the shorter. Where the calculation at (iv) above results in zero or a negative number, the application for leave to remain will be refused.

(f) Where:

(i) the Certificate of Sponsorship Checking Service reference number records that the applicant is being sponsored in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route as a creative worker, and

(ii) the Sponsor is the Sponsor who sponsored the applicant when he received his last grant of leave

leave to remain will be granted for the period set out in paragraph (f) below.

(g) Where the conditions in paragraph (e) above are met, leave to remain will be granted for:

(i) the period of engagement plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement), or

(ii) 12 months

whichever of (i) or (ii) is the shorter, unless the applicant has spent more than 1 year continuously in the UK with leave as a Tier 5 (Temporary Worker) Migrant, in which case leave to remain will be granted for:

(iii) the period of engagement plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement), or

(iv) a period equal to 2 years less X, where X is the period of time, beginning with the date on which the applicant was last granted entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant, that the applicant has already spent in the UK as a Tier 5 (Temporary Worker) Migrant

whichever of (iii) or (iv) is the shorter.

(h) Leave to remain will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police if this is required by paragraph 326 of these Rules, and

(iii) no employment except:

(1) unless paragraph (2) applies, working for the person who for the time being is the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do for that Sponsor,

(2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the government authorised exchange subcategory of Tier 5 (Temporary Workers), the work, volunteering or job shadowing authorised by the Sponsor and that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do,

(3) supplementary employment, and

(4) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the creative and sporting subcategory of Tier 5 (Temporary Workers), employment as a sports person for his national team while his national team is in the UK and Temporary Engagement as a Sports Broadcaster.

(iv) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the international agreement sub-category of Tier 5 (Temporary Workers), to work as a private servant in a diplomatic household, the employment in (iii)(1) above means working only in the household of the employer recorded by the Certificate of Sponsorship Checking Service .

#### **245ZS. Requirements for indefinite leave to remain**

To qualify for indefinite leave to remain as a Tier 5 (Temporary Worker) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

(aa) DELETED.

(a) The applicant must not fall for refusal under the general grounds for refusal and must not be an illegal entrant.

(b) The applicant must have spent a continuous period of 5 years lawfully in the UK with leave in the international agreement sub-category of Tier 5 and working as a private servant in a diplomatic household and have last been granted entry clearance in this capacity under the Rules in place before 6 April 2012.

(c) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33D of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.

(d) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

(e) the applicant must provide a letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, the applicant must provide a personal letter which includes full details of the reason for the absences and all original supporting documents in relation to those reasons - e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.

## **Tier 4 (General) Student**

### **245ZT. Purpose of this route**

This route is for migrants aged 16 or over who wish to study in the UK.

### **245ZU. Entry clearance**

All migrants arriving in the UK and wishing to enter as a Tier 4 (General) Student must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

### **245ZV. Requirements for entry clearance**

To qualify for entry clearance as a Tier 4 (General) Student, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

#### **Requirements:**

- (a) The applicant must not fall for refusal under the General Grounds for Refusal.
- (b) The applicant must have a minimum of 30 points under paragraphs 113 to 120 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 10 to 14 of Appendix C.

(ca) The applicant must, if required to do so on examination or interview, be able to demonstrate without the assistance of an interpreter English language proficiency of a standard to be expected from an individual who has reached the standard specified in a Confirmation of Acceptance for Studies assigned in accordance with Appendix A paragraph 118(b) (for the avoidance of doubt, the applicant will not be subject to a test at the standard set out in Appendix A, paragraph 118(b)).

(da) if the applicant wishes to undertake a course:

(i) undergraduate or postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 of these Rules, or

(ii) undergraduate or postgraduate studies leading to a taught Masters degree or other postgraduate qualification in one of the disciplines listed in paragraph 2 of Appendix 6 of these Rules, or

(iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at an institution of higher education where this forms part of an overseas postgraduate qualification

the applicant must hold a valid Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office which relates to the course, or area of research, that the applicant will be taking and at the institution at which the applicant wishes to undertake it and must provide a print-out of his Academic Technology Approval Scheme clearance certificate to show that these requirements have been met.

(e) If the applicant wishes to be a postgraduate doctor or dentist on a recognised Foundation Programme:

(i) the applicant must have successfully completed a recognised UK degree in medicine or dentistry from:

(1) an institution with a Tier 4 General Sponsor Licence,

(2) a UK publicly funded institution of further or higher education or

(3) a UK bona fide private education institution which maintains satisfactory records of enrolment and attendance,

(ii) the applicant must have previously been granted leave:

(1) as a Tier 4 (General) Student, or as a Student, for the final academic year of the studies referred to in paragraph (i) above, and

(2) as a Tier 4 (General) Student, or as a Student, for at least one other academic year (aside from the final year) of the studies referred to in paragraph (i) above,

(iii) if the applicant has previously been granted leave as a Postgraduate Doctor or Dentist, the applicant must not be seeking entry clearance or leave to enter or remain to a date beyond 3 years from the date on which he was first granted leave to enter or remain in that category, and

(iv) if the applicant has previously been granted leave as a Tier 4 (General) Student to undertake a course as a postgraduate doctor or dentist, the applicant must not be seeking entry clearance or leave to enter or remain to a date beyond 3 years from the date on which the applicant was first granted leave to undertake such a course.

(f) If the applicant is currently being sponsored by a Government or international scholarship agency, or within the last 12 months has come to the end of such a period of sponsorship, the applicant must provide the written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(g) If the course is below degree level the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 3 years in the UK as a Tier 4 Migrant since the age of 18 studying courses that did not consist of degree level study.

(ga) If the course is at degree level or above, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 5 years in the UK as a Tier 4 (General) Migrant, or as a Student, studying courses at degree level or above unless:

(i) the applicant has successfully completed a course at degree level in the UK of a minimum duration of 4 academic years, and will follow a course of study at Master's degree level sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council, and the grant of entry clearance must not lead to the applicant having spent more than 6 years in the UK as a Tier 4 (General) Migrant, or as a Student, studying courses at degree level or above; or

(ii) the grant of entry clearance is to follow a course leading to the award of a PhD, and the applicant is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or

(iii) the applicant is following a course of study in;

(1) Architecture;

(2) Medicine;

(3) Dentistry;

(4) Law, where the applicant has completed a course at degree level in the UK and is progressing to:

- a. a law conversion course validated by the Joint Academic Stage Board; or
- b. the Legal Practice Course; or
- c. the Bar Professional Training Course.

(5) Veterinary Medicine & Science; or

(6) Music at a music college that is a member of Conservatoires UK (CUK).

(gb) If the applicant has completed a course leading to the award of a PhD in the UK, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 8 years in the UK as a Tier 4 (General) Migrant, or as a Student.

(h) The applicant must be at least 16 years old.

(i) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(j) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

(k) The Entry Clearance Officer must be satisfied that the applicant is a genuine student. 245ZV(k) will not be applied to a national or the rightful holder of a qualifying passport issued by one of the relevant competent authorities listed in Appendix H.

**245ZW. Period and conditions of grant**

(a) Subject to paragraph (b), entry clearance will be granted for the duration of the course.

(b) In addition to the period of entry clearance granted in accordance with paragraph (a), entry clearance will also be granted for the periods set out in the following table. Notes to accompany the table appear below the table.

<b>Type of course</b>	<b>Period of entry clearance to be granted before the course starts</b>	<b>Period of entry clearance to be granted after the course ends</b>
12 months or more	1 month	4 months
6 months or more but less than 12 months	1 month	2 months
Pre-sessional course of less than 6 months	1 month	1 month
Course of less than 6 months	7 days	7 days

that is not a pre-sessional course

Postgraduate doctor or dentist

1 month

1 month

#### Notes

(i) If the grant of entry clearance is made less than 1 month or, in the case of a course of less than 6 months that is not a pre-sessional course, less than 7 days before the start of the course, entry clearance will be granted with immediate effect.

(ii) A pre-sessional course is a course which prepares a student for the student's main course of study in the UK.

(iii) The additional periods of entry clearance granted further to the table above will be disregarded for the purposes of calculating whether a migrant has exceeded the limits specified at 245ZV(g) to 245ZV(gb).

(c) Entry clearance will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no employment except:

(1) employment during term time of no more than 20 hours per week and employment (of any duration) during vacations, where the student is following a course of degree level study and is either:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or

(b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the United Kingdom.

(2) employment during term time of no more than 10 hours per week and employment (of any duration) during vacations, where the student is following a course of below degree level study and is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council,

(3) employment during term time of no more than 10 hours per week and employment (of any duration) during vacations, where the student is following a course of study at any academic level and is sponsored by a Sponsor that is a publicly funded further education college,

(4) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spends on that placement does not exceed one third of the total length of the course undertaken in the UK except:

(i) where it is a United Kingdom statutory requirement that the placement should exceed one third of the total length of the course; or

(ii) where the placement does not exceed one half of the total length of the course undertaken in the UK and the student is following a course of degree level study and is either:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or

(b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the United Kingdom.

(5) employment as a Student Union Sabbatical Officer, for up to 2 years, provided the post is elective and is at the institution which is the applicant's Sponsor or they must be elected to a national National Union of Students (NUS) position.

(6) employment as a postgraduate doctor or dentist on a recognised Foundation Programme

(7) until such time as a decision is received from the UK Border Agency on an application which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor and which is made following successful completion of course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council and while the applicant has extant leave, and any appeal against that decision has been determined, employment with the Tier 2 Sponsor, in the role for which they assigned the Certificate of Sponsorship to the Tier 4 migrant,

(8) self-employment, providing the migrant has made an application for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant which:

(a) is supported by an endorsement from a qualifying Higher Education Institution,

(b) is made following successful completion of a UK recognised Bachelor degree, Masters degree or PhD (not a qualification of equivalent level which is not a degree) course at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council, and

(c) is made while the applicant has extant leave,

until such time as a decision is received from the UK Border Agency on that application and any appeal against that decision has been determined, provided that the migrant is not self-employed other than under the conditions of (8) above, or employed as a Doctor or Dentist in Training other than under the conditions of (v) below, professional sportsperson (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a permanent full time vacancy other than under the conditions of (7) above, or a vacancy on a recognised Foundation Programme or as a sabbatical officer; and

(iv) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies Checking Service records as the migrant's Sponsor, or where the migrant was awarded points for a visa letter, study at the institution which issued that visa letter unless the migrant is studying at an institution which is a partner institution of the migrant's Sponsor.

(2) until such time as a decision is received from the UK Border Agency on an application which is supported by a Confirmation of Acceptance for Studies assigned by a Highly Trusted Sponsor and which is made while the applicant has extant leave, and any appeal against that decision has been determined, study at the Highly Trusted Sponsor institution which the Confirmation of Acceptance for Studies Checking Service records as having assigned a Confirmation of Acceptance for Studies to the Tier 4 migrant;

(3) supplementary study,

(v) no employment as a Doctor or Dentist in Training unless:

(1) the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme, or

(2) the migrant has made an application as a Tier 4 (General) Student which is supported by a Confirmation of Acceptance for Studies assigned by a Highly Trusted Sponsor to sponsor the applicant to do a recognised Foundation Programme, and this study satisfies the requirements of (iv)(2) above, or

(3) the migrant has made an application as a Tier 2 (General) Migrant which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor to sponsor the applicant to work as a Doctor or Dentist in Training, and this employment satisfies the conditions of (iii)(7) above.

#### **245ZX. Requirements for leave to remain**

To qualify for leave to remain as a Tier 4 (General) Student under this rule, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the applicant will be refused.

##### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal and must not be an illegal entrant.
- (b) The applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:
  - (i) as a Tier 4 (General) Student,
  - (ii) as a Tier 4 (Child) Student,
  - (iii) as a Tier 1 (Post-study Work) Migrant,
  - (iv) as a Tier 2 Migrant,
  - (v) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
  - (vi) as a Participant in the Fresh Talent: Working in Scotland Scheme,
  - (vii) as a Postgraduate Doctor or Dentist,
  - (viii) as a Prospective Student,
  - (ix) as a Student,
  - (x) as a Student Nurse,
  - (xi) as a Student Re-sitting an Examination,
  - (xii) as a Student Writing-Up a Thesis,
  - (xiii) as a Student Union Sabbatical Officer, or

(xiv) as a Work Permit Holder.

(c) The applicant must have a minimum of 30 points under paragraphs 113 to 120 of Appendix A.

(d) The applicant must have a minimum of 10 points under paragraphs 10 to 14 of Appendix C.

(ea) if the applicant wishes to undertake a course:

(i) undergraduate or postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 of these Rules, or

(ii) undergraduate or postgraduate studies leading to a taught Masters degree or other postgraduate qualification in one of the disciplines listed in paragraph 2 of Appendix 6 of these Rules, or

(iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at an institution of higher education where this forms part of an overseas postgraduate qualification

the applicant must hold a valid Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office which relates to the course, or area of research, that the applicant will be taking and at the institution at which the applicant wishes to undertake it and must provide a print-out of his Academic Technology Approval Scheme clearance certificate to show that these requirements have been met.

(f) If the applicant wishes to be a postgraduate doctor or dentist on a recognised Foundation Programme:

(i) the applicant must have successfully completed a recognised UK degree in medicine or dentistry from:

(1) an institution with a Tier 4 General Sponsor Licence,

(2) a UK publicly funded institution of further or higher education or

(3) a UK bona fide private education institution which maintains satisfactory records of enrolment and attendance,

(ii) the applicant must have previously been granted leave:

(1) as a Tier 4 (General) Student, or as a Student, for the final academic year of the studies referred to in paragraph (i) above, and

(2) as a Tier 4 (General) Student, or as a Student, for at least one other academic year (aside from the final year) of the studies referred to in paragraph (i) above,

(iii) if the applicant has previously been granted leave as a Postgraduate Doctor or Dentist the applicant must not be seeking entry clearance or leave to enter or remain to a date beyond 3 years from the date on which he was first granted leave to enter or remain in that category, and

(iv) if the applicant has previously been granted leave as a Tier 4 (General) Student to undertake a course as a postgraduate doctor or dentist, the applicant must not be seeking entry clearance or leave to enter or remain to a date beyond 3 years from the date on which he was first granted leave to undertake such a course.

(g) If the applicant is currently being sponsored by a Government or international scholarship agency, or within the last 12 months has come to the end of such a period of sponsorship, the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met.

(h) If the course is below degree level the grant of leave to remain the applicant is seeking must not lead to the applicant having spent more than 3 years in the UK as a Tier 4 Migrant since the age of 18 studying courses that did not consist of degree level study.

(ha) If the course is at degree level or above, the grant of leave to remain the applicant is seeking must not lead to the applicant having spent more than 5 years in the UK as a Tier 4 (General) Migrant, or as a Student, studying courses at degree level or above unless:

(i) the applicant has successfully completed a course at degree level in the UK of a minimum duration of 4 academic years, and will follow a course of study at Master's degree level sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council, and the grant of leave to remain must not lead to the applicant having spent more than 6 years in the UK as a Tier 4 (General) Migrant, or as a Student, studying courses at degree level or above; or

(ii) the grant of leave to remain is to follow a course leading to the award of a PhD and the applicant is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or

(iii) the applicant is following a course of study in;

(1) Architecture;

(2) Medicine;

(3) Dentistry;

(4) Law, where the applicant has completed a course at degree level in the UK and is progressing to:

a. a law conversion course validated by the Joint Academic Stage Board; or

b. the Legal Practice Course; or

c. the Bar Professional Training Course.

(5) Veterinary Medicine & Science; or

(6) Music at a music college that is a member of Conservatoires UK (CUK).

(hb) If the applicant has completed a course leading to the award of a PhD in the UK, the grant of leave to remain the applicant is seeking must not lead to the applicant having spent more than 8 years in the UK as a Tier 4 (General) Migrant, or as a Student.

(i) The applicant must be at least 16 years old.

(j) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(k) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.

(l) The applicant must be applying for leave to remain for the purpose of studies which commence within 28 days of the expiry of the applicant's current leave to enter or remain or, where the applicant has overstayed, within 28 days of when that period of overstaying began.

(m) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

#### **245ZY. Period and conditions of grant**

(a) Subject to paragraphs (b) and (c) below, leave to remain will be granted for the duration of the course.

(b) In addition to the period of leave to remain granted in accordance with paragraph (a), leave to remain will also be granted for the periods set out in the following table. Notes to accompany the table appear below the table.

<b>Type of course</b>	<b>Period of leave to remain to be granted before the course starts</b>	<b>Period of leave to remain to be granted after the course ends</b>
12 months or more	1 month	4 months
6 months or more but less than 12 months	1 month	2 months
Pre-sessional course of less than 6 months	1 month	1 month
Course of less than 6 months that is not a pre-sessional course	7 days	7 days
Postgraduate doctor or dentist	1 month	1 month

**Notes**

(i) If the grant of leave to remain is being made less than 1 month or, in the case of a course of less than 6 months that is not a pre-sessional course, less than 7 days before the start of the course, leave to remain will be granted with immediate effect.

(ii) A pre-sessional course is a course which prepares a student for the student's main course of study in the UK.

(iii) The additional periods of entry clearance granted further to the table above will be disregarded for the purposes of calculating whether a migrant has exceeded the limits specified at 245ZX(h) to 245ZX(hb).

(c) Leave to remain will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no employment except:

(1) employment during term time of no more than 20 hours per week and employment (of any duration) during vacations, where the student is following a course of degree level study and is either:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and

Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or

(b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the United Kingdom.

(2) employment during term time of no more than 10 hours per week and employment (of any duration) during vacations, where the student is following a course of below degree level study and is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council,

(3) employment during term time of no more than 10 hours per week and employment (of any duration) during vacations, where the student is following a course of study at any academic level and is sponsored by a Sponsor that is a publicly funded further education college,

(4) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spends on that placement does not exceed one third of the total length of the course undertaken in the UK except:

(i) where it is a United Kingdom statutory requirement that the placement should exceed one third of the total length of the course; or

(ii) where the placement does not exceed one half of the total length of the course undertaken in the UK and the student is following a course of degree level study and is either:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or

(b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the United Kingdom.

(5) employment as a Student Union Sabbatical Officer for up to 2 years provided the post is elective and is at the institution which is the applicant's Sponsor or they must be elected to a national National Union of Students (NUS) position,

(6) employment as a postgraduate doctor or dentist on a recognised Foundation Programme

(7) until such time as a decision is received from the UK Border Agency on an application which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor and which is made following successful completion of course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council and while the applicant has extant leave, and any appeal against that decision has been determined, employment with the Tier 2 Sponsor institution, in the role for which they assigned the Certificate of Sponsorship to the Tier 4 migrant,

(8) self-employment, providing the migrant has made an application for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant which is supported by an endorsement from a qualifying Higher Education Institution and which is made following successful completion of a course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council and while the applicant has extant leave, until such time as a decision is received from the UK Border Agency on an application and any appeal against that decision has been determined, provided that the migrant is not self-employed other than under the conditions of (8) above, or employed as a Doctor or Dentist in Training other than under the conditions of (v) below, a professional sportsperson (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a permanent full time vacancy other than under the conditions of (7) above, or a vacancy on a recognised Foundation Programme or as a sabbatical officer.

(iv) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies Checking Service records as the migrant's Sponsor, or where the migrant was awarded points for a visa letter, study at the institution which issued that visa letter unless the migrant is studying at an institution which is a partner institution of the migrant's Sponsor,

(2) until such time as a decision is received from the UK Border Agency on an application which is supported by a Confirmation of Acceptance for Studies assigned by a Highly Trusted Sponsor and which is made while the applicant has extant leave, and any appeal against that decision has been determined, study at the Highly Trusted Sponsor institution which the Confirmation of Acceptance for Studies Checking Service records as having assigned a Confirmation of Acceptance for Studies to the Tier 4 migrant,

(3) supplementary study;

(v) no employment as a Doctor or Dentist in Training unless:

(1) the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme, or

(2) the migrant has made an application as a Tier 4 (General) Student which is supported by a Confirmation of Acceptance for Studies assigned by a Highly Trusted Sponsor to sponsor the applicant to do a recognised Foundation Programme, and this study satisfies the requirements of (iv)(2) above, or

(3) the migrant has made an application as a Tier 2 (General) Migrant which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor to sponsor the applicant to work as a Doctor or Dentist in Training, and this employment satisfies the conditions of (iii)(7) above.

## **Tier 4 (Child) Student**

### **245ZZ. Purpose of route**

This route is for children at least 4 years old and under the age of 18 who wish to be educated in the UK.

### **245ZZA. Entry clearance**

All migrants arriving in the UK and wishing to enter as a Tier 4 (Child) Student must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) The applicant must have a minimum of 30 points under paragraphs 121 to 126 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 15 to 22 of Appendix C.
- (d) The applicant must be at least 4 years old and under the age of 18.
- (e) The applicant must have no children under the age of 18 who are either living with the applicant or for whom the applicant is financially responsible.
- (f) If a foster carer or a relative (not a parent or guardian) of the applicant will be responsible for the care of the applicant:

(i) the arrangements for the care of the applicant by the foster carer or relative must meet the requirements in paragraph 245ZZE and the applicant must provide the specified documents in paragraph 245ZZE to show that this requirement has been met, and

(ii) the applicant must provide details of the care arrangements as specified in paragraph 245ZZE.

(g) The application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(h) The applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

(i) If the applicant is currently being sponsored by a Government or international scholarship agency, or within the last 12 months has come to the end of such a period of sponsorship, the applicant must provide the written consent of the sponsoring Government or agency to the application and must provide the specified documents as set out in paragraph 245A above, to show that this requirement has been met

**245ZZB. Period and conditions of grant**

(a) Where the applicant is under the age of 16, entry clearance will be granted for:

(i) a period of no more than 1 month before the course starts, plus

(ii) a period:

(1) requested by the applicant,

(2) equal to the length of the programme the applicant is following, or

(3) of 6 years

whichever is the shorter, plus

(iii) 4 months.

(b) Where the applicant is aged 16 or over, entry clearance will be granted for:

(i) a period of no more than 1 month before the course starts, plus

(ii) a period:

(1) requested by the applicant,

(2) equal to the length of the programme the applicant is following, or

(3) of 3 years

whichever is the shorter, plus

(iii) 4 months.

(c) Entry clearance will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no employment whilst the migrant is aged under 16,

(iv) no employment whilst the migrant is aged 16 or over except:

(1) employment during term time of no more than 10 hours per week,

(2) employment (of any duration) during vacations,

(3) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spend on that placement does not exceed half of the total length of the course undertaken in the UK except where it is a United Kingdom statutory requirement that the placement should exceed half the total length of the course

(4) employment as a Student Union Sabbatical Officer for up to 2 years provided the post is elective and is at the institution which is the applicant's Sponsor or they must be elected to a national National Union of Students (NUS) position,

provided that the migrant is not self employed, or employed as a Doctor in Training, a professional sportsperson (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a permanent full time vacancy other than a vacancy as a sabbatical officer.

(v) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies Checking Service records as the migrant's Sponsor, or where the migrant was awarded points for a visa letter, study at the institution which issued that visa letter unless the migrant is studying at an institution which is a partner institution of the migrant's Sponsor;

(2) until such time as a decision is received from the UK Border Agency on an application which is supported by a Confirmation of Acceptance for Studies assigned by

a Highly Trusted Sponsor and which is made while the applicant has extant leave, and any appeal against that decision has been determined, study at the Highly Trusted Sponsor institution which the Confirmation of Acceptance for Studies Checking Service records as having assigned a Confirmation of Acceptance for Studies to the Tier 4 migrant;

(3) supplementary study.

### **245ZZC. Requirements for leave to remain**

To qualify for leave to remain as a Tier 4 (Child) Student under this rule, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, leave to remain will be refused.

#### **Requirements:**

- (a) The applicant must not fall for refusal under the general grounds for refusal and must not be an illegal entrant.
- (b) The applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:
  - (i) as a Tier 4 Migrant,
  - (ii) as a Student, or
  - (iii) as a Prospective Student.
- (c) The applicant must have a minimum of 30 points under paragraphs 121 to 126 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 15 to 22 of Appendix C.
- (e) The applicant must be under the age of 18.
- (f) The applicant must have no children under the age of 18 who are either living with the applicant or for whom the applicant is financially responsible.
- (g) If a foster carer or a relative (not a parent or guardian) of the applicant will be responsible for the care of the applicant:
  - (i) the arrangements for the care of the applicant by the foster carer or relative must meet the requirements in paragraph 245ZZE and the applicant must provide the specified documents in paragraph 245ZZE to show that this requirement has been met, and

(ii) the applicant must provide details of the care arrangements as specified in paragraph 245ZZE.

(h) The application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(i) The applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.

(j) The applicant must be applying for leave to remain for the purpose of studies which commence within 28 days of the expiry of the applicant's current leave to enter or remain or, where the applicant has overstayed, within 28 days of when that period of overstaying began.

(k) If the applicant is currently being sponsored by a Government or international scholarship agency, or within the last 12 months has come to the end of such a period of sponsorship, the applicant must provide the written consent of the sponsoring Government or agency to the application and must provide the specified documents as specified in paragraph 245A above, to show that this requirement has been met.

(l) The applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

**245ZZD. Period and conditions of grant**

(a) Where the applicant is under the age of 16, leave to remain will be granted for:

(i) a period of no more than 1 month before the course starts, plus

(ii) a period:

(1) requested by the applicant,

(2) equal to the length of the programme the applicant is following, or

(3) of 6 years

whichever is the shorter, plus

(iii) 4 months.

(b) Where the applicant is aged 16 or over, leave to remain will be granted for:

(i) a period of no more than 1 month before the course starts, plus

(ii) a period:

(1) requested by the applicant,

(2) equal to the length of the programme the applicant is following, or

(3) of 3 years

whichever is the shorter, plus

(iii) 4 months.

(c) Leave to remain will be granted subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no employment whilst the migrant is aged under 16,

(iv) no employment whilst the migrant is aged 16 or over except:

(1) employment during term time of no more than 10 hours per week,

(2) employment (of any duration) during vacations,

(3) employment as part of a course-related work placement which forms an assessed part of the applicant's course, and provided that any period that the applicant spend on that placement does not exceed half of the total length of the course undertaken in the UK except where it is a United Kingdom statutory requirement that the placement should exceed half the total length of the course,

(4) employment as a Student Union Sabbatical Officer for up to 2 years provided the post is elective and is at the institution which is the applicant's Sponsor, or they must be elected to a National Union of Students (NUS) position

provided that the migrant is not self-employed, or employed as a Doctor in Training, a professional sports person (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a permanent full time vacancy other than a vacancy as a sabbatical officer.

(v) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies Checking Service records as the migrant's Sponsor, or where the migrant was awarded points for a

visa letter, study at the institution which issued that visa letter unless the migrant is studying at an institution which is a partner institution of the migrant's Sponsor;

(2) until such time as a decision is received from the UK Border Agency on an application which is supported by a Confirmation of Acceptance for Studies assigned by a Highly Trusted Sponsor and which is made while the applicant has extant leave, and any appeal against that decision has been determined, study at the Highly Trusted Sponsor institution which the Confirmation of Acceptance for Studies Checking Service records as having assigned a Confirmation of Acceptance for Studies to the Tier 4 migrant;

(3) supplementary study.

### **245ZZE Specified documents, details and requirements of care arrangements**

The specified documents, details and requirements of care arrangements referred to in paragraph 245ZZA(f) and paragraph 245ZZC(g) are:

(i) The applicant must provide a written letter of undertaking from the intended carer confirming the care arrangement, which shows:

- (1) the name, current address and contact details of the intended carer,
- (2) the address where the carer and the Tier 4 (Child) student will be living in the UK if different from the intended carer's current address,
- (3) confirmation that the accommodation offered to the Tier 4 (Child) student is a private address, and not operated as a commercial enterprise, such as a hotel or a youth hostel,
- (4) the nature of the relationship between the Tier 4 (Child) student's parent(s) or legal guardian and the intended carer,
- (5) that the intended carer agrees to the care arrangements for the Tier 4 (Child) student,
- (6) that the intended carer has at least £500 per month (up to a maximum of nine months) available to look after and accommodate the Tier 4 (Child) student for the length of the course,
- (7) a list of any other people that the intended carer has offered support to, and
- (8) the signature and date of the undertaking.

(ii) The applicant must provide a letter from his parent(s) or legal guardian confirming the care arrangement, which shows:

- (1) the nature of their relationship with the intended carer,
- (2) the address in the UK where the Tier 4 (Child) student and the Tier 4 (Child) student's intended carer will be living,
- (3) that the parent(s) or legal guardian support the application, and authorise the intended carer to take responsibility for the care of the Tier 4 (Child) student during his stay in the UK,
- (4) the intended carer's current passport, travel document or certificate of naturalisation, confirming that they are lawfully allowed to be in the UK. The UK Border Agency will

accept a notarised copy of the original passport or travel document, but reserves the right to request the original.

(iii) If the applicant will be staying in a private foster care arrangement, he must receive permission from the private foster carer's UK local authority, as set out in the Children (Private Arrangements for Fostering) Regulations 2005.

(iv) If the applicant will be staying in a private foster care arrangement and is under 16 years old, he must provide:

- (1) a copy of the letter of notification from his parent(s), legal guardian or intended carer to the UK local authority, which confirms that the applicant will be in the care of a private foster carer while in the UK, and
- (2) the UK local authority's confirmation of receipt, which confirms that the local authority has received notification of the foster care arrangement.

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