

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 16 March 2011 under section 3(2) of
the Immigration Act 1971*

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Any enquiries regarding this publication should be sent to richard.jackson@homeoffice.gsi.gov.uk or telephone 0114 207 8373

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STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by her as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 8 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 27 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cm 5829), 24 August 2003 (Cm 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cm 6297), 24 September 2004 (Cm 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944) and 21 December 2010 (HC 698).

The changes in this Statement shall take effect on 6 April 2011. However, in respect of all paragraphs of this Statement with the exception of paragraphs 128 and 139 to 142 inclusive, if an applicant has made an application for entry clearance or leave before 6 April 2011 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 5 April 2011.

Review

Before the end of each review period, the Secretary of State must:

- (a) carry out a review of the changes made by HC 863 to the extent that they are still in force,
- (b) set out the conclusions of the review in a report, and
- (c) lay the report before Parliament.

The report must in particular:

- (a) set out the objectives intended to be achieved by any regulatory system established by HC 863,
- (b) assess the extent to which those objectives are achieved, and
- (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

- (a) the period of five years beginning on 6 April 2011, and
- (b) subject to paragraph 4, each successive period of five years.

If a report under this provision is laid before Parliament before the last day of the review period to which it relates, the following review period is to begin with the day on which that report is laid.

Changes

1. In paragraph 6, after the definition of “Certificate of Sponsorship Checking Service” insert:

“Under Part 6A and Appendix A of these Rules, “**length of the period of engagement**” is the 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 Appendix A and ending on the employment end date as recorded in the same entry.

Under Part 6A and Appendix A of these Rules, “**working for the same employer**” includes working for the business or concern in respect of which employment was granted where that business or concern has, since that date, merged with, or been taken over by, another entity.

Under Part 6A and Appendix A of these Rules, “**Designated Competent Body**” means an organisation which has been approved by the UK Border Agency to endorse applicants as a Tier 1 (Exceptional Talent) Migrant.”

For the purpose of para 320(7B) of these Rules “Removal Decision” means (a) a decision to remove in accordance with section 10 of the Immigration and Asylum Act 1999; (b) a decision to remove an illegal entrant by way of directions under paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971 or (c) a decision to remove in accordance with section 47 of the Immigration, Asylum and Nationality Act 2006.

Pending appeal has the same meaning as in section 104 of the Nationality, Immigration and Asylum Act 2002.”

2. In paragraph 6, in the definition of “Established Entertainer”, delete (c) and substitute:
 - “(c) the applicant’s last grant of leave was:
 - (i) as a Work Permit Holder in the sports and entertainment category, provided the work permit on the basis of which that leave was granted was issued in the sports and entertainment category to enable him to work either in the occupation in which he is, at the date of the current application for leave to remain, currently being sponsored, or in another occupation which is defined in the UK Border Agency’s Transitional Guidance as being a job in the entertainment sector, or
 - (ii) leave to remain as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, provided (in either case):
 - (1) he previously had leave as a Work Permit Holder in the sports and entertainment category to work as described in (i) above,
 - (2) he has not been granted entry clearance in this or any other route since his last grant of leave as a Work Permit Holder, and
 - (3) his last grant of leave was made to enable him to work either in the occupation in which he is, at the date of the current application for leave to remain, currently being sponsored or in another occupation which is defined in the UK Border Agency’s Transitional Guidance as being a job in the entertainment sector;”
3. In paragraph 6, in the definition of “Senior Care Worker”, delete (a) and (b) and substitute:
 - “(a) the Certificate of Sponsorship Checking Service entry to which the applicant’s Certificate of Sponsorship reference number relates, records that the applicant is being sponsored in an occupation which is defined in the codes of practice for Tier 2 Sponsors published by the UK Border Agency as being a senior care worker role,
 - (b) the applicant’s last grant of leave was:
 - (i) as a Qualifying Work Permit Holder, or
 - (ii) leave to remain as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, provided (in either case):
 - (1) he previously had leave as a Qualifying Work Permit Holder, and
 - (2) 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.”
4. In paragraph 6, in the definition of “Special Visitor”, at the end of (g), delete “.” and insert “, or”
5. In paragraph 6, in the definition of “Special Visitor”, after (g), insert:

“(h) A person granted entry clearance, leave to enter or leave to remain in the UK as a Prospective Entrepreneur under paragraphs 56N – 56Q of these Rules.”
6. In paragraph 33B, after the words “for the purpose of an application for indefinite leave to remain under these rules” insert “(unless paragraph 33BA applies)”.
7. After paragraph 33B insert:

“33BA. (a) subject to sub-paragraph (b), for the purposes of an application for indefinite leave to remain under these rules, where a person is making an application for indefinite leave to remain as:
 - (i) a work permit holder under paragraph 134;
 - (ii) a Highly Skilled Migrant under paragraph 135G;
 - (iii) a representative of an overseas newspaper, news agency or broadcasting organisation under paragraph 142;
 - (iv) a representative of an overseas business under paragraph 150;
 - (v) an overseas government employee under paragraph 167;
 - (vi) a Minister of religion, religious missionary, or member of a religious order under paragraph 176;
 - (vii) an airport based operational ground staff of an overseas-owned airline under paragraph 184;
 - (viii) a person established in business under paragraph 209;
 - (ix) an innovator under paragraph 210G;

- (x) a person established in business under the provisions of EC Association Agreements under paragraph 222;
- (xi) an investor under paragraph 230;
- (xii) a writer, composer or artist under paragraph 238;
- (xiii) a Tier 1 (Exceptional Talent) Migrant under paragraph 245BF;
- (xiv) a Tier 1 (General) Migrant under paragraph 245CD;
- (xv) a Tier 1 (Entrepreneur) Migrant under paragraph 245DF;
- (xvi) a Tier 1 (Investor) Migrant under paragraph 245EF;
- (xvii) a Tier 2 (Intra-Company Transfer) under paragraph 245GF;
- (xviii) a Tier 2 (General), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson) Migrant under paragraph 245HF.

that person has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, only if they have passed the test known as the “Life in the UK Test” administered by an educational institution or other person approved for this purpose by the Secretary of State.

(b) This sub-paragraph makes provision for transitional arrangements with regards to the requirement to pass the Life in the UK Test for those people applying for indefinite leave to remain in one of the categories listed in 33BA(i)–(xviii):

- (i) Where an applicant enrolled on an ESOL course or gained an ESOL qualification prior to 23rd November 2010, that applicant will be able to rely on an ESOL qualification to meet the requirement to demonstrate sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom for any future application for indefinite leave to remain under one of the categories listed in 33BA.
- (ii) An applicant who enrolled on an ESOL course after 23rd November 2010 and applies for indefinite leave to remain in one of the categories listed in 33BA after 6th April 2011 will have to pass the Life in the UK Test.
- (iii) An applicant who enrolled on an ESOL course after 23rd November 2010 and who gains an ESOL qualification can continue to use that qualification in an application for indefinite leave to remain in one of the categories listed in 33BA if that application was made before 6th April 2011.”

8. After paragraph 56M, insert:

“Prospective Entrepreneurs

Purpose

56N. This Special Visitor route is to enable individuals who are at the time of applying for leave under this route in discussions with:

- (i) one or more registered venture capitalist firms regulated by the Financial Services Authority, and/or
- (ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website, and/or
- (iii) one or more UK Government Departments,

to secure funding in order to join, set up or take over, and be actively involved in the running of, a business in the UK.

Requirements for leave to enter as a Prospective Entrepreneur

56O. The requirements to be met by a person seeking leave to enter the United Kingdom as a Prospective Entrepreneur are that:

- (a) The applicant must provide an original, signed letter on headed paper supporting the application from:
 - (i) one or more registered venture capitalist firms regulated by the Financial Services Authority,
 - (ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website, or
 - (iii) one or more UK Government Departments;
- (b) The letter referred to in (a) must be dated no earlier than three months before the date of the application, be signed by an authorised official, and contain:
 - (i) a description of the nature of the individual(s) and/or organisation(s) supporting the application;
 - (ii) a description of the background and nature of the proposed business;
 - (iii) a description of the applicant’s suitability to be involved with the proposed business;

- (iv) a commitment by the individual(s) and/or organisation(s) supporting the applicant to provide a minimum of £50k funding for the proposed business within 6 months of the applicant entering the UK. (If more than one individual and/or organisation is supporting the applicant, each amount proposed may be less than £50k, provided that the total amount is a minimum of £50k);
 - (v) a commitment by the individual(s) or organisation(s) supporting the applicant that the proposed business will be set up and run from the UK;
 - (vi) details of a contact name, telephone number and e-mail address for the individual(s) and/or organisation(s) supporting the applicant; and
 - (vii) confirmation that the individual(s) and/or organisation(s) supporting the applicant is content to be contacted about the applicant;
- (c) The applicant's primary intention in applying as a Prospective Entrepreneur is to secure funding in order to join, set up or take over, and be actively involved in the running of a business in the UK;
- (d) The applicant intends to carry out one of the activities as listed in guidance published by the UK Border Agency, specifying the activities that a Prospective Entrepreneur may undertake during a visit to the UK;
- (e) The applicant intends to leave the United Kingdom at the end of the period of the visit as stated by him, unless he makes a successful application for leave to remain as a Tier 1 (Entrepreneur) Migrant before the end of the period of the visit;
- (f) The applicant will maintain and accommodate himself and any dependants adequately out of resources available to him without recourse to public funds or taking employment; or will, with any dependants, be maintained and accommodated adequately by relatives or friends;
- (g) The applicant does not intend during his visit to:
- (i) take employment in the United Kingdom;
 - (ii) produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public;
 - (iii) undertake a course of study;
 - (iv) marry or form a civil partnership, or to give notice of marriage or civil partnership; or
 - (v) receive private medical treatment.
- (h) The applicant is not under the age of 18;
- (i) The applicant is not in transit to a country outside the common travel area; and
- (j) The applicant holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a Prospective Entrepreneur

56P. A person seeking leave to enter to the United Kingdom as a Prospective Entrepreneur may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 56O is met.

Refusal of leave to enter as a Prospective Entrepreneur

56Q. Leave to enter as a Prospective Entrepreneur is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 56O is met.”

9. At the end of paragraph 134(iii), delete “and”
10. Delete paragraph 134(iv) and substitute:
“(iv) his employer certifies that he is paid at or above the appropriate rate for the job as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, and
(v) he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA of these Rules, unless he is under the age of 18 or aged 65 or over at the date of his application;
(vi) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974”
11. In paragraph 135G(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”
12. After paragraph 135G(iv), insert “; and
(v) unless the applicant is applying under the terms of the HSMP ILR Judicial Review Policy Document, does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
13. In paragraph 142(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”

14. After paragraph 142(iv), insert “; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
15. Delete paragraph 144(vi)(b)(2) and substitute:
“(2) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, and
(i) provides the specified evidence to show he has the qualification, and
(ii) UK NARIC has confirmed that the qualification was taught or researched in English to level C1 of the Council of Europe’s Common European Framework for Language learning or above, or
(3) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor’s or Master’s degree in the UK, and provides the specified evidence to show that:
(i) he has the qualification, and
(ii) the qualification was taught or researched in English,”
16. In paragraph 150(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”
17. After paragraph 150(iv), insert:
“; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
18. After paragraph 158(iv), insert:
“; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
19. After paragraph 159G(iv), insert:
“; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
20. In paragraph 167(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”
21. After paragraph 167(iv), insert:
“; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
22. In paragraph 176(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”
23. After paragraph 176(iv), insert:
“; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
24. In paragraph 184(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”
25. After paragraph 184(iv), insert:
“; and
(v) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
26. After paragraph 192(iii), insert:
“; and
(iv) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”
27. In paragraph 196B(1), delete “degree” and substitute “primary degree”
28. Delete paragraph 196B(2), and substitute:

“(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.”

29. After paragraph 196D(v), insert:

“; and

(vi) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

30. In paragraph 209(iv) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”

31. After paragraph 209(iv), insert:

“; and

(v) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

32. In paragraph 210G(iii) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”

33. After paragraph 210G(iii), insert:

“; and

(iv) he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

34. In paragraph 222(vii) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”

35. After paragraph 222(vii), insert:

“; and

(viii) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

36. In paragraph 230(iii) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”

37. After paragraph 230(iii), insert:

“; and

(iv) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

38. In paragraph 238(iii) after the words “he has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom,” insert “in accordance with paragraph 33BA of these Rules,”

39. After paragraph 238(iii), insert:

“; and

(iv) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

40. After paragraph 242D(v), insert:

“; and

(vi) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

41. Renumber paragraph 245AA as 245A.

42. Delete pre-existing paragraph number 245A to 245E and substitute:

Tier 1 (Exceptional Talent) Migrants

245B. Purpose

This route is for those who are internationally recognised as world leaders or potential world-leading talent in the fields of science and the arts and who wish to work in the UK.

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.
- (b) The applicant must have a minimum of 75 points under paragraphs 1 to 6 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 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 the Tier 1 (Exceptional Talent) guidance published on the UK Border Agency website, 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) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (d) The applicant must have, or have last been granted, entry clearance, leave to enter or remain as a Tier 1 (Exceptional Talent) Migrant.

245BE. Period and conditions of grant

Leave to remain will be granted for a period of 2 years 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).

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) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.
- (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 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.

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 2 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.

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;
 - (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) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.
 - (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 of the HSMP ILR Judicial review Policy Document, 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 of the HSMP ILR Judicial Review Policy Document, the applicant must have a continuous period of 4 years lawful leave in the UK, 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 of the HSMP ILR Judicial review Policy Document, 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 of the HSMP ILR Judicial Review Policy Document.
43. Renumber paragraph 245F as paragraph 245CE.
 44. Delete paragraph 245G, which currently reads “245G. DELETED”
 45. Renumber paragraph 245H as paragraph 245D.
 46. In new paragraph 245D, delete “paragraphs 245G to 245N” and insert “paragraphs 245D to 245DF” and delete “paragraphs 32 to 41 of Appendix A” and insert “paragraphs 35 to 53 of Appendix A”.
 47. Renumber paragraphs 245I to 245M as paragraphs 245DA to 245DE.
 48. In new paragraph number 245DB(b), delete “paragraphs 32 to 41 of Appendix A” and substitute “paragraphs 35 to 53 of Appendix A”
 49. In new paragraph number 245DC(a), after “3 years” insert “ and four months”.
 50. At the end of new paragraph number 245DC(a)(iii), delete “.” and insert “, and”

51. After new paragraph number 245DC(a)(iii), insert:
“(iv) no employment as a professional sportsperson (including as a sports coach).”
52. In new paragraph number 245DD(b), delete “paragraphs 32 to 41 of Appendix A” and substitute “paragraphs 35 to 53 of Appendix A”.
53. At the end of new paragraph number 245DD(e)(xix), delete “or”.
54. At the end of new paragraph number 245DD(e)(xx), delete “.” and insert “, or”.
55. After new paragraph number 245DD(e)(xx), insert:
“(xxi) as a Prospective Entrepreneur”
56. At the end of new paragraph number 245DE(a)(iii), delete “.” and insert “, and”.
57. In new paragraph number 245DE(c) delete “3 months” and insert “6 months”.
58. After new paragraph number 245DE(a)(iii), insert:
“(iv) no employment as a professional sportsperson (including as a sports coach).”
59. In new paragraph number 245DE(e), delete “paragraph 245M(c)” and substitute “paragraph 245DE(c)”
60. Delete paragraph 245N and substitute:

“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) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.
 - (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.”
61. Renumber paragraph 245O as paragraph 245E.
 62. Renumber paragraphs 245P to 245T as paragraphs 245EA to 245EE.
 63. In new paragraph number 245EB(b), delete “paragraphs 42 to 50 of Appendix A” and substitute “paragraphs 54 to 65 of Appendix A”.
 64. In new paragraph number 245EC(a), after “3 years” insert “ and four months”.
 65. In new paragraph number 245ED(b), delete “paragraphs 42 to 50 of Appendix A” and substitute “paragraphs 54 to 65 of Appendix A”.
 66. In new paragraph 245EC(iii)(1), delete “degree” and substitute “primary degree”.
 67. Delete new paragraph number 245EE(b)(iii)(2) and substitute:
“(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.”
 68. In new paragraph number 245EE(e), delete “paragraph 245T(c)” and substitute “paragraph 245EE(c)”.
 69. Delete paragraph 245U and substitute:

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) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.

- (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.
70. Renumber paragraph 245V as paragraph 245F.
 71. Renumber paragraphs 245W to 245ZA as paragraphs 245FA to 245FE.
 72. In new paragraph numbers 245FB(c), 245FB(f)(i), 245FD(c) and 245FD(h)(i), delete each instance of “paragraphs 51 to 58 of Appendix A” and substitute “paragraphs 66 to 72 of Appendix A”.
 73. In new paragraph number 245FD, delete “paragraph 245ZA(i)” and substitute “paragraph 245FE(a)(i)”.
 74. In new paragraph 245FE(b)(iii)(1), delete “degree” and substitute “primary degree”.
 75. Delete new paragraph number 245FE(b)(iii)(2) and substitute:
 - “(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.”.
 76. Delete paragraphs 245ZB to 245ZH and substitute:

“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 (Intra-Company Transfer) Migrant at any time during the 12 months immediately before the date of the application, regardless of whether he was in the UK during that time, unless paragraph (e) below applies.
- (e) Paragraph (d) above does not apply to an applicant who 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 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 permissible change to the details of that employment as defined in UK Border Agency guidance published on the UK Border Agency website,
 - (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 5 to 10 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.

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) subject to paragraph (ii) below, a period equal to 5 years less X, where X is the continuous period of time that the applicant has already spent in the UK with entry clearance, leave to enter or remain in any combination of the categories set out in paragraph 245GD(b), and where X commences on the date on which the applicant was granted entry clearance, leave to enter or leave to remain at the start of the continuous period;
 - (ii) where the calculation in paragraph (1) would lead to a period of leave of less than 2 years or a period of leave longer than the length of the period of engagement plus 14 days, a period equal to:
 - (1) the length of the period of engagement plus 14 days, or
 - (2) 2 years,

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 was last granted entry clearance or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2011, and
- (iii) paragraphs (c) to (d) do not apply.

(g) 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 (d) 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.

(h) In addition to the periods in paragraphs (a) to (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.

(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 permissible change to the details of that employment as defined in UK Border Agency guidance,
 - (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) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.
- (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 (b) 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) his employer certifies that he is paid at or above the appropriate rate for the job as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency.
- (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 date the application is made.

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 5 to 10 of Appendix B.
- (f) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.
- (g) 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 to show that this requirement has been met.

(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 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 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) 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 permissible change to the details of that employment as defined in UK Border Agency guidance,
 - (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 have, or have last been granted, entry clearance, leave to enter or leave to remain:

- (i) as a Tier 1 Migrant,
- (ii) as a Tier 2 (General) Migrant,
- (iii) as a Tier 2 (Minister of Religion) Migrant,
- (iv) as a Tier 2 (Sportsperson) Migrant,
- (v) as a Highly Skilled Migrant,

- (vi) as an Innovator,
- (vii) as a Jewish Agency Employee,
- (viii) as a Member of the Operational Ground Staff of an Overseas-owned Airline,
- (ix) as a Minister of Religion, Missionary or Member of a Religious Order,
- (x) as an Overseas Qualified Nurse or Midwife,
- (xi) as a Participant in the Fresh Talent: Working in Scotland Scheme,
- (xii) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
- (xiii) as a Person Writing Up a Thesis,
- (xiv) as a Postgraduate Doctor or Dentist,
- (xv) as a Qualifying Work Permit Holder,
- (xvi) as a Representative of an Overseas Business
- (xvii) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
- (xviii) as a Student,
- (xix) as a Student Re-Sitting an Examination,
- (xx) as a Student Nurse,
- (xxi) as a Student Union Sabbatical Officer,
- (xxii) as a Tier 4 Migrant,
- (xxiii) as a Tier 5 (Temporary Worker) Migrant, or
- (xxiv) as the partner of a Relevant Points Based System Migrant if the Relevant Points Based System Migrant is a Tier 4 Migrant.

(f) An applicant who has, or was last granted, leave as a Person Writing up a Thesis or a Postgraduate Doctor or Dentist 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 show that this requirement has been met.

(g) An applicant who was last granted leave as a Student, a Student Re-Sitting an Examination, a Student Nurse, a Student Union Sabbatical Officer, or a Tier 4 Migrant must have completed studying a course of study of at least one academic year in duration during that period of leave.

(h) 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 provide the specified documents to show that this requirement has been met.

(i) 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.

(j) 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.

(k) 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.

(l) The applicant must have a minimum of 10 points under paragraphs 5 to 10 of Appendix B.

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

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

(o) 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.

(p) 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.

(q) If the Sponsor is a limited company, the applicant must not own more than 10% of its shares.

245HE. Period and conditions of grant

(a) In the cases set out in paragraphs (b) and (c) below, leave to remain will be granted for:

- (i) subject to paragraph (ii), a period equal to 5 years less X, where X is the period of time that the applicant has already spent in the UK with entry clearance, leave to enter or remain in any combination of the categories set out in paragraph (b), and where X commences on the date on which the applicant was granted entry clearance, leave to enter or leave to remain at the start of the continuous period;
- (ii) where the calculation in paragraph (i) would lead to a period of leave of less than 2 years or a period of leave longer than the length of the period of engagement plus 14 days, a period equal to:
 - (1) the length of the period of engagement plus 14 days, or
 - (2) 2 years,

whichever is the shorter.

- (b) The cases referred to in paragraph (a) are those where the applicant was last granted:
 - (i) entry clearance, leave to enter or leave to remain as a Jewish Agency Employee,
 - (ii) entry clearance, leave to enter or leave to remain as a Member of the Operational Ground Staff of an Overseas-owned Airline,
 - (iii) entry clearance, leave to enter or leave to remain as a Minister of Religion, Missionary or Member of a Religious Order,
 - (iv) entry clearance, leave to enter or leave to remain as a Qualifying Work Permit Holder,
 - (v) entry clearance, leave to enter or leave to remain as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
 - (vi) leave to remain as a Tier 2 (Minister of Religion) Migrant, provided:
 - (1) he previously had leave as a Minister of Religion, Missionary or Member of a Religious Order, and received his last grant of entry clearance or leave in one of those categories,
 - (2) at some time during that period of leave as a Minister of Religion, Missionary or Member of a Religious Order he was granted leave to remain as a Tier 2 (Minister of Religion) Migrant, and
 - (3) he has not been granted entry clearance in these or any other route since his last grant of leave in one of the categories in (1) above,
 - (vii) leave to remain as a Tier 2 (Sportsperson) Migrant, provided:
 - (1) he previously had leave as a Work Permit Holder,
 - (2) at some time during that period of leave as a Work Permit Holder he was granted leave to remain as a Tier 2 (Sportsperson) Migrant,
 - (3) he has not been granted entry clearance in these or any other route since his last grant of leave as a Work Permit Holder, or
 - (viii) leave to remain as a Tier 2 (General) Migrant, provided:
 - (1) he previously had leave in one of the categories in (i) to (v) above,
 - (2) at some point during the period of leave referred to in (1) he was granted leave to remain as a Tier 2 (General) Migrant, and
 - (3) he has not been granted entry clearance in these or any other route since his last grant of leave in one of the categories in (i) to (v) above.

and paragraph (c) below applies.

- (c) In order for paragraph (a) to apply, in respect of all criteria in paragraph (b) the Sponsor must be the same employer:
 - (i) as the Sponsor on the previous application that was granted, in the case of an applicant whose last grant of leave was as a Tier 2 (General) Migrant,
 - (ii) that the work permit was issued to, in the case of an applicant whose last grant of leave was as a Qualifying Work Permit Holder,
 - (iii) for whom the applicant was working or stated he was intending to work when last granted leave, in the case of an applicant whose last grant of leave was as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Member of the Operational Ground Staff of an Overseas-owned Airline, or a Jewish Agency Employee.
- (d) Where:
 - (i) paragraphs (a) to (c) do not apply,

- (ii) the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 2 Migrant, and
 - (iii) the applicant is working for the same employer doing the same job as he was at the time of that earlier grant, leave to remain will be granted for a period equal to the length of the period of engagement plus 14 days, or for a period of 2 years, whichever is the shorter.
- (e) In all other cases, leave to remain will be granted for:
- (i) a period equal to the length of the period of engagement plus 14 days, or
 - (ii) 3 years whichever is the shorter.
- (f) In addition to the periods in paragraphs (a), (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 permissible change to the details of that employment as defined in UK Border Agency guidance,
 - (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.
- (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) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.
- (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 for Tier 2 Sponsors published by the United Kingdom Border Agency.
- (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 time the application is made."
77. In paragraph 245ZQ(b), delete "The applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:" and substitute "The applicant must have, or have last been granted:"
 78. Delete paragraph 245ZQ(b)(i) and substitute:
“(i) entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant, or”.
 79. In paragraph 245ZQ(b)(ii) to (v), at the start of each paragraph delete “as” and substitute “entry clearance, leave to enter or leave to remain as”.
 80. In paragraph 245ZS, before (a) insert:
“(aa) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
 81. After paragraph 248D(vi), insert:
“; and
(vii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
 82. At the end of paragraph 269(ii), delete the full stop and insert:
“; and
(iii) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
 83. After paragraph 273D(v), insert:
“; and
(vi) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
 84. In paragraph 276B(ii), delete “(e) previous criminal record and the nature of any offence of which the person has been convicted; and”.
 85. Renumber paragraph 276B(ii)(f) as 276B(ii)(e).
 86. Renumber paragraph 276B(ii)(g) as 276B(ii)(f).
 87. Renumber paragraph 276B(iii) as 276B(iv).
 88. After the renumbered paragraph 276B(ii)(f) insert:
“; and
(iii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
 89. After paragraph 276F(iv), insert:
“; and
(v) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
 90. After paragraph 276I(iv), insert:
“; and
(v) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.

91. After paragraph 276L(iv), insert:
“; and
(v) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
92. After paragraph 276O(iv), insert:
“; and
(v) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
93. After paragraph 276R(vi), insert:
“; and
(vii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
94. After paragraph 276U(vi), insert:
“; and
(vii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
95. After paragraph 276X(iv), insert:
“; and
(v) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
96. After paragraph 276AA(iv), insert:
“; and
(v) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
97. After paragraph 281(vi), insert “; and
(vii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
98. In paragraph 284(i), delete “or unless the leave in question was granted to the applicant as the spouse, civil partner, unmarried or same-sex partner of a Tier 1 Migrant and that spouse or partner is the same person in relation to whom the applicant is applying for an extension of stay under this rule”.
99. In paragraph 287(a)(i)(c), delete “or” and substitute “and”.
100. In paragraph 287(a)(i)(d), delete “Tier 1 Migrant” and insert “Relevant Points Based System Migrant”.
101. In paragraph 287(a)(i)(e), delete “Tier 1 Migrant” and insert “Relevant Points Based System Migrant”.
102. At the end of paragraph 287 (a)(i)(e), delete “; and” and replace with “; or”.
103. In paragraph 287(a)(i), insert a new sub-paragraph after “(e)”:
“(f) the applicant was admitted into the UK in accordance with paragraph 319L and has completed a period of 2 years limited leave as the spouse or civil partner of a refugee or beneficiary of humanitarian protection who is now present and settled in the UK or as the spouse or civil partner of a former refugee or beneficiary of humanitarian protection who is now a British Citizen.”.
104. After paragraph 295A(viii), insert “; and
(ix) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
105. In paragraph 295G(i)(b), delete “Tier 1 Migrant” and insert “Relevant Points Based System Migrant”.
106. At the end of paragraph 295G(i)(c), delete “; and” and replace with “; or”.
107. In paragraph 295G (i), insert a new sub-paragraph after “(c)”:
“(d) the applicant was admitted into the UK in accordance with paragraph 319O and has completed a period of 2 years limited leave as the unmarried or same-sex partner of a refugee or beneficiary of humanitarian protection who is now present and settled in the UK or as the unmarried or same-sex partner of a former refugee or beneficiary of humanitarian protection who is now a British Citizen.”.
108. In paragraph 295K(1), delete “degree” and substitute “primary degree”.
109. After paragraph 295G(a)(vi), insert:
“; and

- (vii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
110. Delete paragraph 295K(2) and substitute:
“(2) is applying for leave to remain and 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) is applying for leave to remain and 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.”.
111. After paragraph 295M(iv), insert:
“; and
(v) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
112. After paragraph 297(vi), insert:
“; and
(vii) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
113. At the end of paragraph 298 (ii) (b), delete “; and” and replace with “; or”.
114. After paragraph 298 (ii), insert a new sub-paragraph after “(b)”:
“(c) was admitted into the UK in accordance with paragraph 319R and has completed a period of 2 years limited leave as the child of a refugee or beneficiary of humanitarian protection who is now present and settled in the UK or as the child of a former refugee or beneficiary of humanitarian protection who is now a British Citizen.”.
115. After paragraph 298(v), insert:
“; and
(vi) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
116. In paragraph 301, insert a new sub-paragraph after “(iva)”:
“(ivb) does not qualify for limited leave to enter as a child of a parent or parents given limited leave to enter or remain as a refugee or beneficiary of humanitarian protection under paragraph 319R; and”.
117. After paragraph 310(xii), insert:
“; and
(xiii) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
118. After paragraph 311(xi), insert:
“; and
(xii) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
119. After paragraph 317(vi), insert:
“; and
(vii) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.
120. In paragraph 319D(b)(iii)(1), delete “degree” and substitute “primary degree”.
121. Delete paragraph 319D(b)(iii)(2) and substitute:
“(2) is applying for leave to remain and 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) is applying for leave to remain and 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.”.
122. After paragraph 319E(g), insert:
“; and

(h) The applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.

123. Delete paragraph 319H(h) and substitute:

“(h) An applicant who is applying for leave to remain must have, or have last been granted leave as the child of a parent who had leave under any category of these Rules.”.

124. After paragraph 319J(f), insert:

“; and

(g) The applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.

125. In paragraph 319K(a), delete “the Tier 1 (General) Points Based System (Dependants) Policy Guidance” and substitute “the Points Based System (Dependants) Policy Guidance”.

126. After paragraph 319K, insert a new heading:

“Other family members of persons with limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection”

127. After the new heading insert new paragraphs 319L–319U:

“Requirements for leave to enter the United Kingdom as the spouse or civil partner of a person with limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection.

319L. The requirements to be met by a person seeking leave to enter the United Kingdom as the spouse or civil partner of a person with limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection, are that:

(i) (a) the applicant is married to or the civil partner of a person who has limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection granted such status under the immigration rules and the parties are married or have formed a civil partnership after the person granted asylum or humanitarian protection left the country of his former habitual residence in order to seek asylum or humanitarian protection; and

(b) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant’s name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:

(i) the applicant is aged 65 or over at the date he makes his application; or

(ii) the Secretary of State or Entry Clearance Officer considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement; or

(iii) the Secretary of State or Entry Clearance Officer considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement; or

(iv) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; USA; or

(v) the applicant has obtained an academic qualification(not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s or Masters degree or PhD in the UK, from an educational establishment in one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA; and provides the specified documents; or

(vi) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s or Masters degree or PhD in the UK, and

(1) provides the specified evidence to show he has the qualification, and

(2) UK NARIC has confirmed that the degree was taught or researched in English, or

(vii) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s or Masters degree or PhD in the UK, and provides the specified evidence to show:

(1) he has the qualification, and

(2) that the qualification was taught or researched in English; and

(ii) the parties to the marriage or civil partnership have met; and

- (iii) each of the parties intends to live permanently with the other as his or her spouse or civil partner and the marriage or civil partnership is subsisting; and
- (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (v) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (vi) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

319M. Leave to enter the United Kingdom as the spouse or civil partner of a refugee or beneficiary of humanitarian protection may be granted for 63 months provided the Immigration Officer is satisfied that each of the requirements of paragraph 319L (i) – (vi) are met.

319N. Leave to enter the United Kingdom as the spouse or civil partner of a refugee or beneficiary of humanitarian protection is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 319(i) – (vi) are met.

Requirements for leave to enter the United Kingdom as the unmarried or same-sex partner of a person with limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection.

319O. The requirements to be met by a person seeking leave to enter the United Kingdom as the unmarried or same-sex partner of a person with limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection, are that:

(i) (a) the applicant is the unmarried or same-sex partner of a person who has limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection granted such status under the immigration rules, and the parties have been living together in a relationship akin to either a marriage or civil partnership subsisting for two years or more after the person granted asylum or humanitarian protection left the country of his former habitual residence in order to seek asylum or humanitarian protection; and

(b) the applicant provides an original English language test certificate in speaking and listening from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant's name and the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference) unless:

- (i) the applicant is aged 65 or over at the time he makes his application;
- (ii) the Secretary of State or Entry Clearance Officer considers that the applicant has a physical or mental condition that would prevent him from meeting the requirement;
- (iii) the Secretary of State or Entry Clearance Officer considers there are exceptional compassionate circumstances that would prevent the applicant from meeting the requirement;
- (iv) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; USA;
- (v) the applicant has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet the recognised standard of a Bachelor's or Masters degree or PhD in the UK, from an educational establishment in one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA; and provides the specified documents; or
- (vi) the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's or Masters degree or PhD in the UK, and
 - (1) provides the specified evidence to show he has the qualification, and
 - (2) UK NARIC has confirmed that the degree was taught or researched in English, or
- (vii) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor's or Masters degree or PhD in the UK, and provides the specified evidence to show:
 - (1) he has the qualification, and
 - (2) that the qualification was taught or researched in English; and
 - (ii) any previous marriage or civil partnership (or similar relationship) by either partner has permanently broken down; and
 - (iii) the parties are not involved in a consanguineous relationship with one another; and

- (iv) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (v) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds; and
- (vi) the parties intend to live together permanently; and
- (vii) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

319P. Leave to enter the United Kingdom as the unmarried or same-sex partner of a refugee or beneficiary of humanitarian protection may be granted for 63 months provided the Immigration Officer is satisfied that each of the requirements of paragraph 319O (i) – (vii) are met.

319Q. Leave to enter the United Kingdom as the unmarried or same-sex partner of a refugee or beneficiary of humanitarian protection is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 319O (i) – (vii) are met.

Requirements for leave to enter the United Kingdom as the child of a parent or parents given limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection

319R. The requirements to be met by a person seeking leave to enter the United Kingdom as the child of a parent or parents given limited leave to enter or remain in the United Kingdom as a refugee or beneficiary of humanitarian protection, are that the applicant:

- (i) is the child of a parent or parents granted limited leave to enter or remain as a refugee or beneficiary of humanitarian protection granted as such under the immigration rules; and
- (ii) is under the age of 18, and
- (iii) is not leading an independent life, is unmarried, is not in a civil partnership, and has not formed an independent family unit; and
- (iv) was conceived after the person granted asylum or humanitarian protection left the country of his habitual residence in order to seek asylum in the UK; and
- (v) can, and will, be accommodated adequately by the parent or parents the child is seeking to join without recourse to public funds in accommodation which the parent or parents the child is seeking to join, own or occupy exclusively; and
- (vi) can, and will, be maintained adequately by the parent or parents the child is seeking to join, without recourse to public funds; and
- (vii) if seeking leave to enter, holds a valid United Kingdom entry clearance for entry in this capacity.

319S. Limited leave to enter the United Kingdom as the child of a refugee or beneficiary of humanitarian protection may be granted for 63 months provided the Immigration Officer is satisfied that each of the requirements in paragraph 319R (i) – (vii) are met.

319T. Limited leave to enter the United Kingdom as the child of a refugee or beneficiary humanitarian protection is to be refused if the Immigration Officer is not satisfied that each of the requirements in paragraph 319R (i) – (vii) are met.

Requirements for indefinite leave to remain in the United Kingdom as the spouse or civil partner, unmarried or same – sex partner or child of a refugee or beneficiary of humanitarian protection present and settled in the United Kingdom

319U. To qualify for indefinite leave to remain in the UK, an applicant must meet the requirements set out in paragraph 287 if the applicant is a spouse or civil partner, paragraph 295G if they are an unmarried or same-sex partner, or 298 if the applicant is a child and the sponsor must be present and settled in the United Kingdom at the time the application is made. If an applicant meets the requirements as set out in the relevant paragraphs, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.”.

128. Delete paragraphs 320(7B)(iv) and (v) and insert:

- “(iv) left the UK voluntarily, at the expense (directly or indirectly) of the Secretary of State, more than 2 years ago; and the date the person left the UK was no more than 6 months after the date on which the person was given notice of the removal decision, or no more than 6 months after the date on which the person no longer had a pending appeal; whichever is the later;
- (v) left the UK voluntarily, at the expense (directly or indirectly) of the Secretary of State, more than 5 years ago; or
- (vi) was removed or deported from the UK more than 10 years ago.”.

129. After paragraph 352AA(v), insert:

- “(vi) the parties are not involved in a consanguineous relationship with one another; and”.

130. Renumber all sub-paragraphs to paragraph 352AA from (i) to (viii) inclusive.
131. In paragraph 352B, delete “352A (i)–(iii)”, and insert “352A (i)–(v)”.
132. In paragraph 352BA, delete “325AA (i)–(v)” and insert “352AA (i)–(vii)”.
133. In paragraph 352C, delete “325A (i)–(iii)” and insert “352A (i)–(v)”.
134. In paragraph 352CA, delete “352AA (i)–(v)” and insert “352AA (i)–(vi)”.
135. After paragraph 352FD (v), insert:
“(vi) the parties are not involved in a consanguineous relationship with one another; and”.
136. In paragraph 352FD, renumber all sub-paragraphs from (i) to (vii) inclusive.
137. In paragraph 352FE, delete “352FD (i)–(v)” and insert “352FD (i)–(vi)”.
138. In paragraph 352FF, delete “352FD (i)–(v)” and insert “352FD (i)–(vi)”.
139. Under Appendix 1, paragraph 1(a) next to the entry “Oman” insert “(except those referred to in sub-paragraph 2(j) of this Appendix)”.
140. Under Appendix 1, paragraph 1(a) next to the entry “Qatar” insert “(except those referred to in sub-paragraph 2(k) of this Appendix)”.
141. Under Appendix 1, paragraph 1(a) next to the entry “United Arab Emirates” insert “(except those referred to in sub-paragraph 2(l) of this Appendix)”.
142. After Appendix 1, paragraph 2(i), insert:
“(j) those nationals or citizens of Oman, who hold diplomatic and special passports issued by Oman when travelling to the UK for the purpose of a general visit in accordance with paragraph 41,
(k) those nationals or citizens of Qatar who hold diplomatic and special passports issued by Qatar when travelling to the UK for the purpose of a general visit in accordance with paragraph 41,
(l) those nationals or citizens of the United Arab Emirates who hold diplomatic and special passports issued by the United Arab Emirates when travelling to the UK for the purpose of a general visit in accordance with paragraph 41”.
143. In Appendix A, delete paragraphs 1 to 50 and Tables 1 to 8 and substitute:

“Attributes for Tier 1 (Exceptional Talent) Migrants

1. An applicant applying for entry clearance, leave to remain or indefinite leave to remain as a Tier 1 (Exceptional Talent) Migrant must score 75 points for attributes.
2. Available points are shown in Table 1.
3. Notes to accompany the table are shown below the table.

Table 1

Applications for entry clearance

Criterion	Points
Endorsed by Designated Competent Body	75

Applications for leave to remain and indefinite leave to remain

Criterion	Points
The applicant is economically active in his expert field as previously endorsed by a Designated Competent Body, in employment or self-employment or both; and that Designated Competent Body has not withdrawn its endorsement of the applicant.	75

Notes

4. The Secretary of State shall be entitled to limit the number of endorsements available to be allocated to Designated Competent Bodies for use in endorsing applications for entry clearance under the Tier 1 (Exceptional Talent) route for a particular period, to be referred to as the Tier 1 (Exceptional Talent) limit.
5. The Tier 1 (Exceptional Talent) limit for the period 6 April 2011 to 5 April 2012 is 1,000 endorsements, which is divided as follows:
 - (a) 700 endorsements are available to be allocated for the purpose of endorsing applicants with exceptional talent in the field of science.
 - (b) 300 endorsements are available to be allocated for the purpose of endorsing applicants with exceptional talent in the field of the arts.

(c) Within each of the fields described in (a) and (b) above, the number of endorsements available will be divided between each of the Designated Competent Bodies in that field as agreed between the Secretary of State and those Designated Competent Bodies.

6. In order for the applicant to obtain points for being endorsed by a Designated Competent Body:

(a) The applicant must have been endorsed by a Designated Competent Body as defined in paragraph 6 of these Rules, and provide the specified evidence;

(b) The endorsement must have been given by the Designated Competent Body according to the criteria agreed between that body and the UK Border Agency for endorsing Tier 1 (Exceptional Talent) applicants, according to the terms set out in the code of practice published by the UK Border Agency on the UK Border Agency website;

(c) The applicant must not have made false representations and false documents or information must not have been submitted (whether or not material to the endorsement, and whether or not to the applicant's knowledge), and material facts must have been disclosed, to the Designated Competent Body when obtaining the endorsement;

(d) The endorsement must not exceed the Tier 1 (Exceptional Talent) limit referred to in paragraph 5 above;

(e) The application for entry clearance or leave to remain must be made no more than 3 months after the endorsement was given to the applicant by the Designated Competent Body; and

(f) The endorsement must not have been withdrawn by the Designated Competent Body when the application for Entry Clearance is made.

Attributes for Tier 1 (General) Migrants

7. An applicant applying for leave to remain or indefinite leave to remain as a Tier 1 (General) Migrant must score 75 points for attributes, 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.

8. An applicant applying for leave to remain or indefinite leave to remain as a Tier 1 (General) Migrant who does not fall within the scope of paragraph 7 above or paragraph 9 below must score 80 points for attributes.

9. An applicant applying for indefinite leave to remain as a Tier 1 (General) Migrant whose application is being made under terms of the HSMP ILR Judicial review Policy Document is not required to score points for attributes.

10. Available points are shown in Table 2 and Table 3 below. Only one set of points will be awarded per column in each table. For example, points will only be awarded for one qualification.

11. Notes to accompany Table 2 and Table 3 appear below Table 3.

Table 2 – Applications for leave to remain and indefinite leave to remain where 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 6 April 2010, and has not been granted leave in any categories other than these since 6 April 2010

Qualification	Points	Previous earnings	Points	UK Experience	Points	Age (at date of application for first grant)	Points
Bachelor's degree (see paragraph 13 below)	30	£16,000–£17,999.99 (see paragraph 18 below)	5	If £16,000 or more of the previous earnings for which points are claimed were earned in the UK	5	Under 28 years of age	20
Master's degree	35	£18,000–£19,999.99 (see paragraph 18 below)	10			28 or 29 years of age	10
PhD	50	£20,000–£22,999.99	15			30 or 31 years of age	5
		£23,000–£25,999.99	20				
		£26,000–£28,999.99	25				
		£29,000–£31,999.99	30				
		£32,000–£34,999.99	35				
		£35,000–£39,999.99	40				
		£40,000 or more	45				

Table 3 – All other applications for leave to remain and indefinite leave to remain

Qualification	Points	Previous earnings	Points	UK Experience	Points	Age (at date of application for first grant)	Points
Bachelor's degree	30	£25,000–£29,999.99	5	If £25,000 or more of the previous earnings for which points are claimed were earned in the UK	5	Under 30 years of age	20
Master's degree	35	£30,000–£34,999.99	15			30 to 34 years of age	10
PhD	45	£35,000–£39,999.99	20			35 to 39 years of age	5
		£40,000–£49,999.99	25				
		£50,000–£54,999.99	30				
		£55,000–£64,999.99	35				
		£65,000–£74,999.99	40				
		£75,000–£149,999.99	45				
		£150,000 or more	80				

Notes

12. Qualifications and/or earnings will not be taken into account if the applicant was in breach of the UK's immigration laws at the time those qualifications were studied for or those earnings were made.

Qualifications: notes

13. An applicant will be awarded no points for a Bachelor's degree if:

(a) his last grant of entry clearance was as a Tier 1 (General) Migrant under the Rules in place between 31 March 2009 and 5 April 2010, or

(b) (i) he has had leave to remain as a Tier 1 (General) Migrant under the Rules in place between 31 March 2009 and 5 April 2010, and

(ii) his previous entry clearance, leave to enter or leave to remain before that leave was not as a Highly Skilled Migrant, as a Writer, Composer or Artist, as a Self-employed Lawyer, or as a Tier 1 (General) Migrant.

14. Specified documents must be provided as evidence of the qualification, unless the applicant has, or was last granted, leave as a Highly Skilled Migrant or a Tier 1 (General) Migrant and previously scored points for the same qualification in respect of which points are being claimed in this application.

15. Points will only be awarded for an academic qualification if an applicant's qualification is deemed by the National Academic Recognition Information Centre for the United Kingdom (UK NARIC) to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD, as appropriate, in the UK.

16. Points will also be awarded for vocational and professional qualifications that are deemed by UK NARIC or the appropriate UK professional body to be equivalent to a Bachelor's or Master's degree or a PhD in the UK.

17. If the applicant has, or was last granted, leave as a Tier 1 (General) Migrant or a Highly Skilled Migrant and the qualification for which points are now claimed was, in the applicant's last successful application for leave or for a Highly Skilled Migrant Programme Approval Letter, assessed to be of a higher level than now indicated by UK NARIC, the higher score of points will be awarded in this application too.

Previous earnings: notes

18. An applicant will be awarded no points for previous earnings of less than £20,000 if:

(a) his last grant of entry clearance was as a Tier 1 (General) Migrant under the Rules in place between 31 March 2009 and 5 April 2010, or

(b) (i) he has had leave to remain as a Tier 1 (General) Migrant under the Rules in place between 31 March 2009 and 5 April 2010, and

(ii) his previous entry clearance, leave to enter or leave to remain before that leave was not as a Highly Skilled Migrant, as a Writer, Composer or Artist, as a Self-employed Lawyer, or as a Tier 1 (General) Migrant.

19. Specified documents from two or more sources must be provided as evidence for each source of previous earnings.

Period for assessment

20. Applicants should indicate in the application form for which 12-month period their earnings should be assessed.

21. (a) For all applicants the period for assessment of earnings must:

(i) consist of no more than 12 months which must run consecutively, and

(ii) fall within the 15 months immediately preceding the application.

(b) If the applicant:

(i) has been on maternity or adoption leave at some point within the 12 months preceding the application, and

(ii) has provided the specified documents, or where due to exceptional circumstances the specified documents are not available, has provided alternative documents which show that the circumstances provided for in (i) apply,

the applicant may choose for a period of no more than 12 months spent on maternity or adoption leave to be disregarded when calculating both the 12-month and 15-month period.

22. If the applicant has not indicated a period for assessment of earnings, or has indicated a period which does not meet the conditions in paragraph 24 above, their earnings will be assessed against the 12-month period immediately preceding their application, assuming the specified documents have been provided. Where the specified documents have not been provided, points will not be awarded for previous earnings.

Earnings

23. Earnings include, but are not limited to:

- (a) salaries (includes full-time, part-time and bonuses),
- (b) earnings derived through self-employment,
- (c) earnings derived through business activities,
- (d) statutory and contractual maternity pay, statutory and contractual adoption pay,
- (e) allowances (such as accommodation, schooling or car allowances) which form part of an applicant's remuneration package and are specified in the applicant's payslips,
- (f) dividends paid by a company in which the applicant is active in the day-to-day management, or where the applicant receives the dividend as part or all of their remuneration package,
- (g) property rental income, where this constitutes part of the applicant's business, and
- (h) payments in lieu of notice.

24. Where the earnings take the form of a salary or wages, they will be assessed before tax (i.e. gross salary).

25. Where the earnings are the profits of a business derived through self-employment or other business activities:

- (a) the earnings that will be assessed are the profits of the business before tax. Where the applicant only has a share of the business, the earnings that will be assessed are the profits of the business before tax to which the applicant is entitled, and
- (b) the applicant must be registered as self-employed in the UK, and must provide the specified evidence.

26. Earnings do not include unearned sources of income, such as:

- (a) allowances (such as accommodation, schooling or car allowances) which are paid as reimbursement for monies the applicant has previously paid,
- (b) any other allowances, unless part of the applicant's remuneration package and specified in the applicant's payslips,
- (c) dividends, unless paid by a company in which the applicant is active in the day-to-day management, or unless the applicant receives the dividend as part or all of their remuneration package,
- (d) property rental income, unless this constitutes part of the applicant's business,
- (e) interest on savings and investments,
- (f) funds received through inheritance,
- (g) monies paid to the applicant as a pension,
- (h) expenses where the payment constitutes a reimbursement for monies the applicant has previously outlaid,
- (i) redundancy payment,
- (j) sponsorship for periods of study,
- (k) state benefits, or
- (l) prize money or competition winnings, other than where they are directly related to the applicant's main profession or occupation.

Converting foreign currencies

27. Earnings in a foreign currency will be converted to pound sterling (£) using the closing spot exchange rate for the last day of the period for which the applicant has claimed earnings in that currency.

28. If the applicant's earnings fall either side of a period of maternity or adoption leave, earnings in a foreign currency will be converted to pounds sterling (£) using the closing spot exchange rate which exists:

- (a) for the earnings earned before maternity or adoption leave, on the last day of the period before maternity leave, and
- (b) for the earnings earned after maternity or adoption leave, on the last day of the period after maternity leave.

29. The spot exchange rate which will be used is that which appears on www.oanda.com*

30. Where the previous earnings claimed are in different currencies, any foreign currencies will be converted before being added together, and then added to any UK earnings, to give a total amount.

UK Experience: notes

31. Previous earnings will not be taken into account for the purpose of awarding points for UK experience if the applicant was not physically present in the UK at the time those earnings were made.

32. Previous earnings will not be taken into account for the purpose of awarding points for UK experience if the applicant was physically present in the Isle of Man or the Channel Islands at the time those earnings were made.

Age: notes

33. If the applicant was first granted leave in the categories of Highly Skilled Migrant, Writer, Composer or Artist, Self-employed lawyer or Tier 1 (General) Migrant and has not been granted leave in any category other than those listed here since the first grant of leave, points will be awarded based on the applicant's age at the date of the application for that first grant of leave. If the applicant has been granted leave since his first grant of leave in a category not listed in this paragraph, points will be awarded based on his age at the date of application for a grant of leave in a category listed in this paragraph where leave has not been granted in any category not listed in this paragraph between that grant of leave and the current application.

34. Specified documents must be provided as evidence of age.

Attributes for Tier 1 (Entrepreneur) Migrants

35. An applicant applying for entry clearance, leave to remain or indefinite leave to remain as a Tier 1 (Entrepreneur) Migrant must score 75 points for attributes.

36. Subject to paragraph 37, available points for applications for entry clearance or leave to remain are shown in Table 4.

37. Available points for an applicant applying for leave to remain who has, or has last been granted entry clearance, leave to enter or remain as:

- (i) a Tier 1 (Entrepreneur),
- (ii) a Businessperson,
- (iii) an Innovator

are shown in Table 5.

38. Available points for applications for indefinite leave to remain are shown in Table 6.

39. (a) Notes to accompany Table 4 appear below Table 4.

(b) Notes to accompany Table 5 and Table 6 appear below Table 6.

(c) Notes on entrepreneurial teams appear below Table 6 and apply to Tables 4, 5 and 6.

Table 4: Applications for entry clearance or leave to remain referred to in paragraph 36

Investment	Points
(a) The applicant has access to not less than £200,000, or (b) The applicant has access to not less than £50,000 from: (i) one or more registered venture capitalist firms regulated by the Financial Services Authority, (ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website, or (iii) one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business.	25
The money is held in one or more regulated financial institutions	25
The money is disposable in the UK	25

Investment: notes

40. Specified documents as set out in the Tier 1 (Entrepreneur) Guidance, published on the UK Border Agency website, must be provided as evidence of any investment.

41. An applicant will only be considered to have access to funds if:

- (a) The specified documents are provided to show cash money to the amount required (this must not be in the form of assets);
- (b) The specified documents are provided to show that the applicant has permission to use the money to invest in a business in the UK; and
- (c) The money is either held in a UK regulated financial institution or is transferable to the UK.

42. Points will only be awarded to an applicant to whom Table 4, paragraph (b) applies if the total sum of those funds derives from one or more of the sources listed in (b)(i) to (iii) in Table 4.

43. A regulated financial institution is one which is regulated by the appropriate regulatory body for the country in which the financial institution operates.

44. Money is disposable in the UK if all of the money is held in a UK based financial institution or if the money is freely transferable to the UK and convertible to sterling. Funds in a foreign currency will be converted to pounds sterling (£) using the spot exchange rate which appeared on www.oanda.com* on the date on which the application was made.

45. If the applicant has invested the money referred to in Table 4 in the UK before the date of the application, points will be awarded for funds available as if the applicant had not yet invested the funds, providing the investment was made no more than 12 months before the date of the application.

Table 5: Applications for leave to remain referred to in paragraph 37

Investment and business activity	Points
The applicant has invested, or had invested on his behalf, not less than £200,000 (or £50,000 if, in his last grant of leave, he was awarded points for funds of £50,000 from one of the sources listed in Table 4 paragraph (b) above) in cash directly into one or more businesses in the UK.	20
The applicant has: (a) registered with HM Revenue and Customs as self-employed, or (b) registered a new business in which he is a director, or (c) registered as a director of an existing business. Where the applicant's last grant of entry clearance, leave to enter or leave to remain was as a Tier 1 (Entrepreneur) Migrant, the above condition must have been met within 6 months of his entry to the UK (if he was granted entry clearance as a Tier 1 (Entrepreneur) Migrant and there is evidence to establish his date of arrival to the UK), or, in any other case, the date of the grant of leave to remain.	20
On a date no earlier than three months prior to the date of application, the applicant was: (a) registered with HM Revenue and Customs as self-employed, or (b) registered a new business in which he is a director, or (c) registered as a director of an existing business.	15
The applicant has: (a) established a new business or businesses that has or have created the equivalent of at least two new full time jobs for persons settled in the UK, or (b) taken over or invested in an existing business or businesses and his services or investment have resulted in a net increase in the employment provided by the business or businesses for persons settled in the UK by creating the equivalent of at least two new full time jobs. Where the applicant's last grant of entry clearance or leave to enter or remain was as a Tier 1 (Entrepreneur) Migrant, the jobs must have existed for at least 12 months of the period for which the previous leave was granted.	20

Table 6: Applications for indefinite leave to remain as referred to in paragraph 38

Row	Investment and business activity	Points
1.	<p>On a date no earlier than three months prior to the date of application, the applicant was:</p> <p>(a) registered with HM Revenue and Customs as self-employed, or</p> <p>(b) registered a new business in which he is a director, or</p> <p>(c) registered as a director of an existing business.</p>	20
2.	<p>The applicant has:</p> <p>(a) established a new UK business or businesses that has or have created the equivalent of X new full time jobs for persons settled in the UK, or</p> <p>(b) taken over or invested in an existing UK business or businesses and his services or investment have resulted in a net increase in the employment provided by the business or businesses for persons settled in the UK by creating the equivalent of X new full time jobs where X is at least 2.</p> <p>Where the applicant's last grant of entry clearance or leave to enter or remain was as a Tier 1 (Entrepreneur) Migrant, the jobs must have existed for at least 12 months of the period for which the previous leave was granted.</p>	20
3.	<p>The applicant has spent the specified continuous period lawfully in the UK, with absences from the UK of no more than 180 days in any 12 calendar months during that period.</p> <p>The specified period must have been spent with leave as a Tier 1 (Entrepreneur) Migrant, as a Businessperson and/or as an Innovator, of which the most recent period must have been spent with leave as a Tier (1) (Entrepreneur) Migrant.</p> <p>The specified continuous period is:</p> <p>(a) 3 years if the number of new full time jobs, X, referred to in row 2 above is at least 10,</p> <p>(b) 3 years if the applicant has:</p> <p style="padding-left: 20px;">(i) established a new UK business that has had an income from business activity of at least £5 million during a 3 year period in which the applicant has had leave as a Tier 1 (Entrepreneur) Migrant, or</p> <p style="padding-left: 20px;">(ii) taken over or invested in an existing UK business and his services or investment have resulted in a net increase in income from business activity to that business of £5 million during a 3 year period in which the applicant has had leave as a Tier 1 (Entrepreneur) Migrant, when compared to the immediately preceding 3 year period,</p> <p>or</p> <p>(c) 5 years in all other cases.</p>	35

Investment and business activity: notes

46. Documentary evidence must be provided in all cases. Specified documents as set out in the Tier 1 (Entrepreneur) Guidance, published on the UK Border Agency website, must be provided as evidence of any investment and business activity that took place when the applicant had leave as a Tier 1 (Entrepreneur) Migrant.

47. For the purposes of tables 4, 5 and 6, "investment" does not include the value of any residential accommodation, property development or property management and must not be in the form of a director's loan, unless it is unsecured and subordinated in favour of the business.

48. Points will only be awarded in respect of a UK business or businesses. A business will be considered to be in the UK if:

- (i) it is trading within the UK economy, and
- (ii) it has a registered office in the UK, except where the applicant is registered with HM Revenue & Customs as self-employed and does not have a business office, and
- (iii) it has a UK bank account, and
- (iv) it is subject to UK taxation.

Multinational companies that are registered as UK companies with either a registered office or head office in the UK are considered to be UK businesses for the purposes of tables 4, 5 and 6.

49. A full time job is one involving at least 30 hours' of work a week. Two or more part time jobs that add up to 30 hours a week will count as one full time job but one full time job of more than 30 hours work a week will not count as more than one full time job.

50. Where the applicant's last grant of entry clearance or leave was as a Tier 1 (Entrepreneur) Migrant, the jobs must have existed for a total of at least 12 months during the period in which the migrant had leave in that category. This need not consist of 12 consecutive months and the jobs need not exist at the date of application, provided they existed for at least 12 months during the period in which the migrant had leave as a Tier 1 (Entrepreneur) Migrant.

51. The jobs must comply with all relevant UK legislation including, but not limited to, the National Minimum Wage and the Working Time Directive.

Entrepreneurial teams: Notes

52. Two applicants may claim points for the same investment and business activity in Tables 4, 5 or 6 providing the following requirements are met.

Requirements:

(a) The applicants have equal level of control over the funds and/or the business or businesses in question;

(b) The applicants are both shown by name in each other's applications and in the specified evidence required in the relevant table; and

(c) Neither applicant has previously been granted leave as a Tier 1 (Entrepreneur) Migrant on the basis of investment and/or business activity linked in this way with any applicant other than each other if the same funds are being relied on as in a previous application.

53. If the two applicants referred to in paragraph 52 above make their applications on different dates, or are granted leave on different dates, where the dates referred to in Table 4, Table 5 and the associated notes relate to investment and/or business activity, the relevant date will be taken as the date of the earlier application or grant of leave of the two, for both applications. The dates referred to in Table 6 will be the date of each individual application.

Attributes for Tier 1 (Investor) Migrants

54. An applicant applying for entry clearance, leave to remain or indefinite leave to remain as a Tier 1 (Investor) Migrant must score 75 points for attributes.

55. Subject to paragraph 56, available points for applications for entry clearance or leave to remain are shown in Table 7.

56. Available points for an applicant applying for leave to remain who has, or has last been granted, entry clearance, leave to enter or remain as:

(i) a Tier 1 (Investor) Migrant, or

(ii) an Investor

are shown in Table 8.

57. Available points for applications for indefinite leave to remain are shown in Table 9.

58. Notes to accompany Table 7, Table 8 and Table 9 appear below Table 9.

Table 7: Applications for entry clearance or leave to remain referred to in paragraph 60

Assets	Points
<p>The applicant:</p> <p>(a) has money of his own under his control held in a regulated financial institution and disposable in the UK amounting to not less than £1 million; or</p> <p>(b) (i) owns personal assets which, taking into account any liabilities to which they are subject, have a value exceeding £2 million, and</p> <p>(ii) has money under his control held in a regulated financial institution and disposable in the UK amounting to not less than £1 million which has been loaned to him by a UK regulated financial institution.</p>	75

Table 8: Applications for leave to remain referred to in paragraph 61

Assets and investment	Points
<p>The applicant:</p> <p>(a) has money of his own under his control in the UK amounting to not less than £1 million, or</p> <p>(b) (i) owns personal assets which, taking into account any liabilities to which they are subject, have a value of not less than £2 million, and</p> <p>(ii) has money under his control and disposable in the UK amounting to not less than £1 million which has been loaned to him by a UK regulated financial institution.</p>	30
<p>The applicant has invested not less than £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, subject to the restrictions set out in paragraph 65 below and has invested the remaining balance of £1,000,000 in the UK by the purchase of assets or by maintaining the money on deposit in a UK regulated financial institution.</p>	30
<p>The investment referred to above was made within 3 months of his entry to the UK (if he was granted entry clearance as a Tier 1 (Investor) Migrant and there is evidence to establish his date of arrival to the UK), or the date of the grant of entry clearance as a Tier 1 (Investor) Migrant (if there is no evidence to establish his date of arrival to the UK), or, in any other case, the date of the grant of leave to remain as a Tier 1 (Investor) Migrant and in each case the investment has been maintained for the whole of the remaining period of that leave;</p> <p>or</p> <p>The migrant has, or was last granted, entry clearance, leave to enter or leave to remain as an Investor.</p>	15

Table 9: Applications for indefinite leave to remain

Row	Assets and investment	Points
1.	<p>The applicant:</p> <p>(a) (i) has money of his own under his control in the UK amounting to not less than £10 million, or</p> <p>(ii) (1) owns personal assets which, taking into account any liabilities to which they are subject, have a value of not less than £20 million, and</p> <p>(2) has money under his control and disposable in the UK amounting to not less than £10 million which has been loaned to him by a UK regulated financial institution,</p> <p>or</p> <p>(b) (i) has money of his own under his control in the UK amounting to not less than £5 million, or</p> <p>(ii) (1) owns personal assets which, taking into account any liabilities to which they are subject, have a value of not less than £10 million, and</p> <p>(2) has money under his control and disposable in the UK amounting to not less than £5 million which has been loaned to him by a UK regulated financial institution,</p> <p>or</p> <p>(c) (i) has money of his own under his control in the UK amounting to not less than £1 million, or</p> <p>(ii) (1) owns personal assets which, taking into account any liabilities to which they are subject, have a value of not less than £2 million, and</p> <p>(2) has money under his control and disposable in the UK amounting to not less than £1 million which has been loaned to him by a UK regulated financial institution,</p>	20

Row	Assets and investment	Points
2.	<p>The applicant has invested not less than 75% of the specified invested amount of his capital in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies, subject to the restrictions set out in paragraph 65 below, and has invested the remaining balance of the specified invested amount in the UK by the purchase of assets or by maintaining the money on deposit in a UK regulated financial institution.</p> <p>The specified invested amount is:</p> <p>(a) £10,000,000 if the applicant scores points from row 1(a) above, (b) £5,000,000 if the applicant scores points from row 1(b) above, or (c) £1,000,000 if the applicant scores points from row 1(c) above.</p>	20
3.	<p>The applicant has spent the specified continuous period lawfully in the UK, with absences from the UK of no more than 180 days in any 12 calendar months during that period.</p> <p>The specified continuous period must have been spent with leave as a Tier 1 (Investor) Migrant and/or as an Investor, of which the most recent period must have been spent with leave as a Tier 1 (Investor) Migrant.</p> <p>The specified continuous period is:</p> <p>(a) 2 years if the applicant scores points from row 1(a) above, (b) 3 years if the applicant scores points from row 1(b) above, or (c) 5 years if the applicant scores points from row 1(c) above.</p>	20
4.	<p>The applicant has maintained the full specified invested amount referred to in the relevant part of row 2 throughout the relevant specified continuous period referred to in row 3, other than in the first 3 months of that period and, in relation to time spent with leave as a Tier 1 (Investor) Migrant, has provided specified documents to show that this requirement has been met.</p> <p>When calculating the specified continuous period, the first day of that period will be taken to be the day 3 months before the full specified amount is invested.</p>	15

Assets and investment: notes

59. Specified documents as set out in the Tier 1 (Investor) Guidance, published on the UK Border Agency website, must be provided as evidence of investment.

60. Money is disposable in the UK if all of the money is held in a UK based financial institution or if the money is freely transferable to the UK and convertible to sterling. Funds in a foreign currency will be converted to pounds sterling (£) using the spot exchange rate which appeared on www.oanda.com* on the date on which the application was made.

61. ‘Money of his own’, ‘personal assets’ and ‘his capital’ include money or assets belonging to the applicant’s spouse, civil partner or unmarried or same-sex partner, provided that:

- (a) the applicant’s spouse, civil partner or unmarried or same-sex partner meets the requirements of paragraphs 319(c) and (d) of these Rules, and
- (b) specified documents are provided to show that the money or assets are under the applicant’s control and that he is free to invest them

62. “Regulated financial institution” is defined in paragraph 43, Appendix A.

63. In the case of an application where Table 7 applies, where the money or assets referred to in Table 7 have already been invested in the UK before the date of application, points will only be awarded if they were invested in the UK no more than 12 months before the date of application.

64. In the case of an application where Table 7 applies, points will only be awarded if the applicant:

- (a) has had the money or assets referred to in Table 7 for a consecutive 90-day period of time, ending no earlier than one calendar month before the date of application, and provides the specified evidence; or
- (b) provides additional specified evidence of the source of the money or assets.

65. Investment excludes investment by the applicant by way of:

- (a) An offshore company or trust,
- (b) Open-ended investment companies, investment trust companies or pooled investment vehicles,
- (c) Companies mainly engaged in property investment, property management or property development,

- (d) Deposits with a bank, building society or other enterprise whose normal course of business includes the acceptance of deposits,
- (e) ISAs, premium bonds and saving certificates issued by the National Savings and Investment Agency (NS&I), for an applicant who has, or last had leave as a Tier 1 (Investor) Migrant, or
- (f) Leveraged investment funds.”
144. In Appendix A, renumber pre-existing paragraphs 51 to 55 as 66 to 70.
145. In new paragraph number 67, delete “Table 9” and substitute “Table 10”
146. In Appendix A, renumber pre-existing Table 9 as Table 10.
147. In Appendix A, in the second row of new Table 10, after “maintains satisfactory records of enrolment and attendance.” insert:
 “The Scottish Institution must:
- (i) be on the list of Education and Training Providers list on the Department of Business, Innovation and Skills website, or
- (ii) hold a sponsor licence under Tier 4 of the Points Based System.”
148. In Appendix A, delete pre-existing paragraphs 56 and 57, which currently both read “Paragraph deleted.” and substitute:
 “71. If the institution studied at is removed from one of the relevant lists referred to in Table 10, or from the Tier 4 Sponsor Register, no points will be awarded for a qualification obtained on or after the date the institution was removed from the relevant list or from the Tier 4 Sponsor Register.”
149. In Appendix A, renumber pre-existing paragraph 58 as paragraph 72.
150. In Appendix A, delete pre-existing paragraphs 58A to 84 and pre-existing Tables 10 and 11 and substitute:
“Attributes for Tier 2 (Intra-Company Transfer) Migrants
73. An applicant applying for entry or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant must score 50 points for attributes.
- 73A. Available points for entry clearance or leave to remain are shown in Table 11.
- 73B. Notes to accompany Table 11 appear below the table.

Table 11

Criterion	Points
Certificate of Sponsorship	30
Appropriate salary	20

Notes

Certificate of Sponsorship

74. In order to obtain points for a Certificate of Sponsorship, the applicant must provide a valid Certificate of Sponsorship reference number.
- 74A. A Certificate of Sponsorship reference number will only be considered to be valid if:
- (a) the number supplied links to a Certificate of Sponsorship Checking Service entry that names the applicant as the migrant and confirms that the Sponsor is sponsoring him as a Tier 2 (Intra-Company Transfer) Migrant and specifies the sub-category of Tier 2 (Intra-Company Transfer) under which he is applying,
- (b) the Sponsor assigned the Certificate of Sponsorship reference number to the migrant no more than 3 months before the application for entry clearance or leave to remain is made,
- (c) the application for entry clearance or leave to remain is made no more than 3 months before the start of the employment as stated on the Certificate of Sponsorship,
- (d) The migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application or withdrawn), and
- (e) that reference number must not have been withdrawn or cancelled by the Sponsor or by the UK Border Agency since it was assigned, including where it has been cancelled by the UK Border Agency due to having been used in a previous application.
- 74B. (a) Except in the cases referred to in paragraph (b) below, no points will be awarded for a Certificate of Sponsorship unless the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of graduate level occupations as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency.

(b) Paragraph (a) does not apply 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 entry clearance, leave to enter or leave to remain as:

- (i) a Qualifying Work Permit Holder, or
- (ii) a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2011.

(c) In the cases referred to in paragraph (b) above, no points will be awarded for a Certificate of Sponsorship unless:

- (i) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 3 as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or
- (ii) the applicant is a Senior Care Worker or an Established Entertainer as defined in paragraph 6 of these Rules.

74C. (a) If the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in either the Short Term Staff or Long Term Staff sub-categories, no points will be awarded for a Certificate of Sponsorship unless:

- (i) the applicant has been working for the Sponsor for the specified period in paragraph (b) below,
- (ii) the applicant has been working for the Sponsor outside the UK and/or in the UK, provided he had leave to work for the Sponsor as:

- (1) a Tier 2 (Intra-Company Transfer) Migrant in either of the Short Term Staff or Long Term Staff sub-categories,
- (2) a Tier 2 (Intra-Company Transfer) Migrant in the Established Staff sub-category under the Rules in place before 6 April 2011,
- (3) a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2010,
- (4) a Qualifying Work permit Holder (provided that the work permit was granted because the holder was the subject of an intra-company transfer), and/or
- (5) as a Representative of an Overseas Business, and
- (iii) the applicant provides the specified documents as set out in the Tier 2 (Intra-Company Transfer) Guidance published on the UK Border Agency website.

(b) The specified period referred to in paragraph (a)(i) above is:

- (i) a continuous period of 12 months immediately prior to the date of application, or
- (ii) if at some point within the 12 months preceding the date of application, the applicant has been:
 - (1) on maternity, paternity or adoption leave,
 - (2) on long-term sick leave lasting one month or longer, or
 - (3) working for the sponsor in the UK as a Tier 2 (Intra-Company Transfer) Migrant in either of the Graduate Trainee or Skills Transfer sub-categories,

and provides the specified evidence as set out in the Tier 2 (Intra-Company Transfer) Guidance published on the UK Border Agency website, an aggregated period of at least 12 months within the 24 month period immediately prior to the date of application.

74D. If the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category, no points will be awarded for a Certificate of Sponsorship unless:

(a) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do is part of a structured graduate training programme as defined in Tier 2 (Intra-Company Transfer) Guidance published on the UK Border Agency website,

(b) the Sponsor has assigned Certificates of Sponsorship to 5 applicants or fewer, including the applicant in question, under the Graduate Trainee sub-category in the current year, beginning 6 April 2011 and ending 5 April 2012, and

(c) the applicant has been working for the Sponsor outside the UK for a continuous period of 3 months immediately prior to the date of application, and must provide the specified documents to prove this,

74E. If the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer subcategory, no points will be awarded for a Certificate of Sponsorship unless the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do is for the sole purpose of transferring skills to or from the Sponsor's UK work environment. The appointment must be additional to staffing requirements, that is the role in the UK would not exist but for the need for skills transfer.

74F. An applicant cannot score points for a Certificate of Sponsorship from Table 11 if the job that the Certificate of Sponsorship Checking Service entry records that he is being sponsored to do is as a Sports person or a Minister of Religion.

Appropriate salary

75. The points awarded for appropriate salary will be based on the applicant's gross annual salary to be paid by the Sponsor, as recorded in the Certificate of Sponsorship Checking Service entry to which the applicant's Certificate of Sponsorship reference number relates, subject to the following conditions:

- (i) Points will be awarded based on basic pay (excluding overtime);
- (ii) Allowances will be included in the salary for the awarding of points where they are part of the guaranteed salary package and:
 - (1) would be paid to a local settled worker in similar circumstances, or
 - (2) are paid to cover the additional cost of living in the UK;
- (iii) Where allowances are made available solely for the purpose of accommodation, they will only be included up to a value of:
 - (1) 40% of the total salary package for which points are being awarded, if the applicant is applying in either the Short Term Staff, Graduate Trainee or Skills Transfer sub-categories, or
 - (2) 30% of the total salary package for which points are being awarded, if the applicant is applying in the Long Term Staff sub-category;
- (iv) Allowances to cover business expenses, including (but not limited to) travel to and from the sending country, will not be included.

75A. No points will be awarded if the salary referred to in paragraph 75 above is less than £40,000 per year where the applicant is applying in the Long Term Staff sub-category, unless the applicant is applying for leave to remain and has, or last had entry clearance, leave to enter or leave to remain as:

- (i) a Qualifying Work Permit Holder, or
- (ii) a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2011.

75B. No points will be awarded if the salary referred to in paragraph 75 above is less than £24,000 per year where the applicant is applying in the Short Term Staff, Graduate Trainee or Skills Transfer sub-categories, unless the applicant is applying for leave to remain and has, or last had entry clearance, leave to enter or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 6 April 2011.

75C. No points will be awarded if the salary referred to in paragraph 75 above is less than the appropriate rate for the job as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, unless the applicant is an Established Entertainer as defined in paragraph 6 of these Rules.

75D. Where the applicant is paid hourly, the appropriate salary consideration will be based on earnings up to a maximum of 48 hours a week, even if the applicant works for longer than this. For example, an applicant who works 60 hours a week for £8 per hour be considered to have a salary of £19,968 (8x48x52) and not £25,960 (8x60x52), and will therefore not be awarded points for appropriate salary.

75E. No points will be awarded for appropriate salary if the applicant does not provide a valid Certificate of Sponsorship reference number with his application.

Attributes for Tier 2 (General) Migrants

76. An applicant applying for entry or leave to remain as a Tier 2 (General) Migrant must score 50 points for attributes.

76A. Available points for entry clearance or leave to remain are shown in Table 11A.

76B. Notes to accompany Table 11A appear below the table.

Table 11A

Certificate of Sponsorship	Points	Appropriate salary	Points
Shortage occupation	30	Appropriate salary	20
Job offer with a salary of £150,000 or more	30		
Job offer passes Resident Labour Market Test	30		
Post-Study Work	30		
Continuing to work in the same job for the same Sponsor	30		

Notes

Certificate of Sponsorship

77. Points may only be scored for one entry in the Certificate of Sponsorship column.

77A. In order to obtain points for a Certificate of Sponsorship, the applicant must provide a valid Certificate of Sponsorship reference number.

77B. The only Certificates of Sponsorship to be allocated to Sponsors for applicants to be sponsored as Tier 2 (General) Migrants during the period 6 April 2011 to 5 April 2012 are:

(a) Certificates of Sponsorship to be assigned to applicants for entry clearance as a Tier 2 (General) Migrant, as allocated to Sponsors under the Tier 2 (General) limit, which is set out in paragraphs 80 to 84A below.

(b) Certificates of Sponsorship to be assigned to applicants for leave to remain as a Tier 2 (General) Migrant,

(c) Certificates of Sponsorship to be assigned to an applicant to do a job for which the gross annual salary (including such allowances as are specified as acceptable for this purpose in guidance issued by the UK Border Agency) is £150,000 or higher, and

77C. A Certificate of Sponsorship reference number will only be considered to be valid if:

(a) the number supplied links to a Certificate of Sponsorship Checking Service entry that names the applicant as the migrant and confirms that the Sponsor is sponsoring him as a Tier 2 (General) Migrant,

(b) the Sponsor assigned that reference number to the migrant no more than 3 months after the Sponsor was allocated the Certificate of Sponsorship, if the Certificate of Sponsorship was allocated to the Sponsor under the Tier 2 (General) limit,

(c) the Sponsor assigned that reference number to the migrant no more than 3 months before the application for entry clearance or leave to remain is made,

(d) the application for entry clearance or leave to remain is made no more than 3 months before the start of the employment as stated on the Certificate of Sponsorship,

(e) the migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Certificate of Sponsorship reference number, regardless of whether that previous application was successful, and

(f) that reference number must not have been withdrawn or cancelled by the Sponsor or by the UK Border Agency since it was assigned, including where it has been cancelled by the UK Border Agency due to having been used in a previous application.

77D. No points will be awarded for a Certificate of Sponsorship unless:

(a) in the case of a Certificate of Sponsorship which was allocated to the Sponsor under the Tier 2 (General) limit, the number supplied links to a Certificate of Sponsorship Checking Service entry which contains the same job and at least the same salary details as stated in the Sponsor's application for that Certificate of Sponsorship,

(b) in the case of a Certificate of Sponsorship which was not allocated to the Sponsor under the Tier 2 (General) limit:

(i) the applicant is applying for leave to remain, or

(ii) the number supplied links to a Certificate of Sponsorship Checking Service entry which shows that the applicant's gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 79 of this Appendix) to be paid by the Sponsor is £150,000 or higher.

77E. (a) Except in the cases referred to in paragraphs (b) and (c) below, no points will be awarded for a Certificate of Sponsorship unless the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of graduate level occupations as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or on the list of shortage occupations published by the UK Border Agency.

(b) Paragraph (a) above does not apply to cases where the applicant:

(i) is applying for leave to remain as a Tier 2 (General) Migrant,

(ii) has previously had entry clearance, leave to enter or leave to remain as:

(1) a Qualifying Work Permit Holder,

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

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

(4) a Jewish Agency Employee, or

- (5) a Tier 2 (General) Migrant under the Rules in place before 6 April 2011,
 less than 5 years before the date that the applicant's last grant of entry clearance, leave to enter or leave to remain expires, and
- (iii) has not been granted entry clearance as a Tier 2 (General) Migrant or in any other category since his last grant of leave in one of the categories in (ii) above.
- (c) Paragraph (a) above also does not apply to cases where:
- (i) the applicant is applying for leave to remain,
 - (ii) the applicant has, or last had, entry clearance, leave to enter or leave to remain as a Tier 2 (General) Migrant or a Qualifying Work Permit Holder,
 - (iii) at the time the Certificate of Sponsorship or Work Permit which led to the grant of leave in (ii) was issued, the job referred to in that Certificate of Sponsorship or Work Permit appeared on the list of shortage occupations published by the UK Border Agency, and
 - (iv) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do in his current application is the same as the job referred to in (iii), for either the same or a different employer.
- (d) In the cases referred to in paragraphs (b) and (c) above, no points will be awarded for a Certificate of Sponsorship unless:
- (i) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 3 as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or
 - (ii) the applicant is a Senior Care Worker or an Established Entertainer as defined in paragraph 6 of these Rules.

77F. An applicant cannot score points for a Certificate of Sponsorship from Table 11A if the job that the Certificate of Sponsorship Checking Service entry records that he is being sponsored to do is as a Sports person or a Minister of Religion.

Shortage occupation

78. In order for the applicant to be awarded points for a job offer in a shortage occupation:

- (a) the job must, at the time the Certificate of Sponsorship was assigned to the applicant, have appeared on the list of shortage occupations published by the UK Border Agency,
- (b) in all cases, contracted working hours must be for at least 30 hours a week, and
- (c) in all cases, if the UK Border Agency list of shortage occupations indicates that the job appears on the 'Scotland only' shortage occupation list, the job offer must be for employment in which the applicant will be working at a location in Scotland.

Job offer with a salary of £150,000 or more

78A. In order for the applicant to be awarded points for a job offer with a salary of £150,000 or more, the Certificate of Sponsorship Checking Service entry must show that the applicant's gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 79 of this Appendix) to be paid by the Sponsor is £150,000 or higher.

Job offer passes Resident Labour Market Test

78B. In order for the applicant to be awarded points for a job offer that passes the resident labour market test:

- (a) the Certificate of Sponsorship Checking Service entry must indicate that the Sponsor has met the requirements of that test, as defined in guidance published by the UK Border Agency, in respect of the job, and
- (b) if the guidance referred to in (a) specifies that the job must have been advertised in Jobcentre Plus or JobCentre Online, the Certificate of Sponsorship Checking Service entry must also contain the Jobcentre Plus or JobCentre Online vacancy reference number.

Post-Study Work

78C. In order for the applicant to be awarded points for post-study work:

- (a) the applicant must be applying for leave to remain,
- (b) the applicant must have entry clearance or leave to remain as a Tier 1 (Post Study Work) Migrant, or as a Participant in the International Graduates' Scheme (or its predecessor, the Science and Engineering Graduates Scheme) or as a Participant in the Fresh Talent: Working in Scotland Scheme,
- (c) the applicant must have been working for the Sponsor for the specified period, and must provide the specified documents to prove this. The specified period is:

- (i) a continuous period of 6 months immediately prior to the date of application, or
- (ii) if at some point within the 6 months preceding the date of application the applicant has been:
 - (1) on maternity, paternity or adoption leave, or
 - (2) on long-term sick leave lasting one month or longer

and provides the specified evidence as set out in the Tier 2 (General) Guidance published on the UK Border Agency website, an aggregated period of at least 6 months within the 18 month period immediately prior to the date of application, and

(d) the job the applicant is being sponsored to do must be the same as the one he is doing at the time of his application.

Continuing to work in the same job for the same Sponsor

78D. In order for the applicant to be awarded points for continuing to work in the same job for the same Sponsor:

- (a) the applicant must be applying for leave to remain,
- (b) the applicant must have entry clearance or leave to remain as:
 - (i) a Tier 2 (General) Migrant,
 - (ii) a Qualifying Work Permit Holder,
 - (iii) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
 - (iv) a Member of the Operational Ground Staff of an Overseas-owned Airline or
 - (v) a Jewish Agency Employee,
- (b) the Sponsor must be the same employer:
 - (i) as the Sponsor on the previous application that was granted, in the case of an applicant whose last grant of leave was as a Tier 2 (General) Migrant,
 - (ii) that the work permit was issued to, in the case of an applicant whose last grant of leave was as a Qualifying Work Permit Holder,
 - (iii) for whom the applicant was working or stated he was intending to work when last granted leave, in the case of an applicant whose last grant of leave was a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Member of the Operational Ground Staff of an Overseas-owned Airline, or a Jewish Agency Employee.
- (c) the job that the Certificate of Sponsorship Checking Service entry records the applicant as having been engaged to do must be the same job:
 - (i) in respect of which the Certificate of Sponsorship that led to the previous grant was issued, in the case of an applicant whose last grant of leave was as a Tier 2 (General) Migrant,
 - (ii) in respect of which the previous work permit was issued, in the case of an applicant whose last grant of leave was as a Qualifying Permit Holder, or
 - (iii) that the applicant was doing, or intended to do, when he received his last grant of leave, in the case of an applicant whose last grant of leave was a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Member of the Operational Ground Staff of an Overseas-owned Airline, or a Jewish Agency Employee.

Appropriate salary

79. The points awarded for appropriate salary will be based on the applicant's gross annual salary to be paid by the Sponsor, as recorded in the Certificate of Sponsorship Checking Service entry to which the applicant's Certificate of Sponsorship reference number relates, subject to the following conditions:

- (i) Points will be awarded based on basic pay (excluding overtime);
- (ii) Allowances, such as London weighting, will be included in the salary for the awarding of points where they are part of the guaranteed salary package and would be paid to a local settled worker in similar circumstances;
- (iii) Other allowances and benefits, such as bonus or incentive pay, travel and subsistence (including travel to and from the applicant's home country), will not be included.

79A. No points will be awarded if the salary referred to in paragraph 79 above is less than £20,000 per year, unless the applicant is applying for leave to remain and has, or last had entry clearance, leave to enter or leave to remain as:

- (i) a Qualifying Work Permit Holder,
- (ii) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
- (iii) a Member of the Operational Ground Staff of an Overseas-owned Airline

(iv) a Jewish Agency Employee, or

(v) a Tier 2 (General) Migrant under the Rules in place before 6 April 2011.

79B. No points will be awarded for appropriate salary if the salary referred to in paragraph 79 above is less than the appropriate rate for the job as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, unless the applicant is an Established Entertainer as defined in paragraph 6 of these Rules.

79C. Where the applicant is paid hourly, the appropriate salary consideration will be based on earnings up to a maximum of 48 hours a week, even if the applicant works for longer than this. For example, an applicant who works 60 hours a week for £8 per hour be considered to have a salary of £19,968 (8x48x52) and not £25,960 (8x60x52), and will therefore not be awarded points for appropriate salary.

79D. No points will be awarded for appropriate salary if the applicant does not provide a valid Certificate of Sponsorship reference number with his application.

Tier 2 (General) limit

Overview

80. The Secretary of State shall be entitled to limit the number of Certificates of Sponsorship available to be allocated to Sponsors in any specific period under the Tier 2 (General) limit referred to in paragraph 77B(a) above;

80A. The Tier 2 (General) limit for the specific period 6 April 2011 to 5 April 2012 is 20,700 Certificates of Sponsorship.

80B. The process by which Certificates of Sponsorship shall be allocated to Sponsors under the Tier 2 (General) limit is set out in paragraphs 80C to 84A and Tables 11B and 11C below.

80C. A Sponsor must apply to the Secretary of State for a Certificate of Sponsorship.

80D. Available points for an application for a Certificate of Sponsorship are shown in Table 11B. No application will be granted unless it scores a minimum of 30 points under the heading "Type of Job" and a minimum of 2 points under the heading "Salary on Offer".

80E. Notes to accompany Table 11B appear below the table.

Table 11B

Applications for Certificates of Sponsorship under the Tier 2 (General) limit

Type of job	Points	Salary on offer	Points
Shortage Occupation	75	£20,000 – £20,999.99	2
PhD-level occupation code and job passes Resident Labour Market Test	50	£21,000 – £21,999.99	3
Job passes Resident Labour Market Test	30	£22,000 – £22,999.99	4
		£23,000 – £23,999.99	5
		£24,000 – £24,999.99	6
		£25,000 – £25,999.99	7
		£26,000 – £26,999.99	8
		£27,000 – £27,999.99	9
		£28,000 – £31,999.99	10
		£32,000 – £45,999.99	15
		£46,000 – £74,999.99	20
		£75,000 – £99,999.99	25
£100,000 – £149,999.99	30		

Notes

81. Points may only be scored for one entry in each column.

81A. No points will be awarded under the heading "Type of Job" unless the job described in the Sponsor's application for a Certificate of Sponsorship appears on the list of graduate level occupations as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency.

81B. In order for the Sponsor's application to be awarded points for a job in a shortage occupation, the job must, at the time the application for a Certificate of Sponsorship is decided, appear on the list of shortage occupations published by the UK Border Agency, and contracted working hours must be for at least 30 hours a week. Furthermore, if the UK Border Agency list of shortage occupations indicates that the job appears on the 'Scotland only' shortage occupation list, the job must be for employment in Scotland.

81C. In order for the Sponsor's application to be awarded points for a job in a PhD-level occupation code, the job must be in an occupation code which appears on the list of PhD-level occupation codes as stated in the Sponsor Guidance published by the UK Border Agency. The Sponsor's application must also meet the requirements of paragraph 81D.

81D. In order for the Sponsor's application to be awarded points for a job that passes the resident labour market test, the Sponsor must certify that it has met the requirements of that test, as defined in guidance published by the UK Border Agency, in respect of the job.

81E. The points awarded under the heading "Salary on Offer" will be based on the gross annual salary on offer to be paid by the Sponsor, as stated in the Sponsor's application, subject to the following conditions:

- (i) Points will be awarded based on basic pay (excluding overtime);
- (ii) Allowances, such as London weighting, will be included in the salary for the awarding of points where they are part of the guaranteed salary package and would be paid to a local settled worker in similar circumstances;
- (iii) Other allowances and benefits, such as bonus or incentive pay, travel and subsistence (including travel to and from the applicant's home country), will not be included.

81F. No points will be awarded for the salary on offer if the salary referred to in paragraph 81E above is less than the appropriate rate for the job as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency.

81G. Where the salary on offer will be paid hourly, the salary on offer will be calculated on the basis of earnings up to a maximum of 48 hours a week, even if the jobholder works for longer than this.

Monthly allocations

82. The Tier 2 (General) limit will be divided into monthly allocations.

82A. There will be a monthly allocation specifying the number of Certificates of Sponsorship available to be allocated in respect of applications for Certificates of Sponsorship received during each application period. The provisional monthly allocation, subject to the processes set out in paragraphs 83 to 84A below, in respect of each application period is set out in table 11C below.

82B. Applications by Sponsors for Certificates of Sponsorship will be accepted for consideration against each monthly allocation in the relevant application period as set out in table 11C below.

82C. An application that would fall to be considered as having been received in a particular application period may be deferred for consideration as if it had been received in the following application period if the Secretary of State considers that the information stated in the application requires verification checks, and may be refused if the information cannot be verified or is confirmed as false. If the verification checks are prolonged due to the failure of the sponsor to co-operate with the verification process such that the application cannot be considered as if it had been received in the next monthly allocation period, the application will be refused.

82D. These provisional monthly allocations may be adjusted according to the processes set out in paragraphs 83 to 84A in the notes below the table.

Table 11C

Certificates of Sponsorship under the Tier 2 (General) limit available to be allocated each month (subject to the processes set out at paragraphs 83 to 84A)

Application Period	Provisional monthly allocation
Up to 6 April 2011	4,200
7 April – 5 May 2011	1,500
6 May 2011 – 5 June 2011	1,500
6 June 2011 – 5 July 2011	1,500
6 July 2011 – 5 August 2011	1,500
6 August 2011 – 5 September 2011	1,500
6 September 2011 – 5 October 2011	1,500
6 October 2011 – 5 November 2011	1,500
6 November 2011 – 5 December 2012	1,500
6 December 2012 – 5 January 2012	1,500
6 January 2012 – 5 February 2012	1,500
6 February 2012 – 5 March 2012	1,500

Notes

83. In paragraphs 83A to 84A below:

(a) “number of applications” means the number of applications by Sponsors for a Certificate of Sponsorship under the Tier 2 (General) limit in one of the monthly periods set out in Table 11C above.

(b) “monthly allocation” means the monthly allocation for that period as set out in Table 11C above, including if applicable any adjustment according to the processes set out in these paragraphs following the assigning of Certificates of Sponsorship under the Tier 2 (General) limit in the previous monthly period.

83A. Subject to paragraph 83E below, if the number of applications is equal to or less than the monthly allocation:

(a) All applications by Sponsors which score 32 points or more from the points available in Table 11B above will be granted, and

(b) If the number of applications granted under (a) above is less than the monthly allocation, the next monthly allocation will be increased by a number equivalent to the Certificates of Sponsorship remaining for allocation in the undersubscribed current month.

83B. Subject to paragraph 83E below, if the number of applications is greater than the monthly allocation:

(a) The minimum points level at which applications for Certificates of Sponsorship will be granted will be calculated as follows:

(i) If the number of applications scoring 32 points or more is no more than 100 greater than the monthly allocation, all applications which score 32 points or more will be granted.

(ii) If the number of applications scoring 32 points or more is more than 100 greater than the monthly allocation, X (being both the number of points scored in Table 11B above and the minimum number of points required for an application to be granted) will be increased by 1 point incrementally until the number of applications scoring X points is:

(1) less than or equal to the monthly allocation; or

(2) no more than 100 greater than the monthly allocation;

whichever results in the higher value of X, at which stage all applications which score X points or more will be granted.

(b) If the number of applications granted under (a) above is less than the monthly allocation, the number remaining under the monthly allocation will be added to the next monthly allocation.

(c) If the number of applications granted under (a) above is more than the monthly allocation, the number by which the monthly allocation is exceeded will be subtracted from the next monthly allocation.

83C. If a Sponsor is allocated one or more Certificates of Sponsorship under the Tier 2 (General) limit which it then elects not to assign to a migrant it may return them to the Secretary of State and the Secretary of State will subsequently add such Certificates of Sponsorship to the following monthly allocation.

83D. If:

(i) a Sponsor is allocated one or more Certificates of Sponsorship under the Tier 2 (General) limit; and

(ii) the application(s) by the Sponsor scored points from Table 11C for a job in a shortage occupation; and

(iii) the Sponsor has not assigned the Certificate(s) of Sponsorship to a migrant(s); and

(iv) the job(s) in question no longer appear on the list of shortage occupations published by the UK Border Agency,

the Certificate(s) of Sponsorship in question will be cancelled and the Secretary of State will subsequently add such Certificates of Sponsorship to the following monthly allocation.

83E. With regard to the final monthly allocation under the Tier 2 (General) limit for 6 April 2011 to 5 April 2012 to which the application period of 6 February 2012 to 5 March 2012 relates:

(i) Paragraphs 83A(b), 83B(b) and 83B(c) do not apply to this monthly allocation, such that no adjustments will be made to the next monthly allocation, and

(ii) References to “more than 100 greater than the monthly allocation” in paragraphs 83B(a)(ii) to (iii) are amended to “greater than the monthly allocation”, such that the total Tier 2 (General) limit of 20,700 Certificates of Sponsorship in the period 6 April 2011 to 5 April 2012 will not be exceeded.

84. The Secretary of State is entitled (but not required) to grant an application for a Certificate of Sponsorship under the Tier 2 (General) limit exceptionally outside of the processes set out in paragraphs 82A to 83B above if:

- (a) the application is considered by the Secretary of State to require urgent treatment when considered in line with the Tier 2 (Sponsor) guidance published on the UK Border Agency website, and
- (b) the application scores enough points from Table 11B above that it would have met the requirements to be granted under the previous monthly allocation.

84A. For each Certificate of Sponsorship application granted under the urgent treatment process set out in paragraph 84 above:

- (i) the current monthly allocation for granting Certificates of Sponsorship further to requests for urgent treatment will be reduced by one, if the current monthly allocation has not yet been reached; or
- (ii) in all other cases, the subsequent monthly allocation for granting Certificates of Sponsorship further to requests for urgent treatment will be reduced by one.”

151. In Appendix A, after paragraph 100(b), insert:

“(c) The endorsement referred to in (b) above must confirm that the player or coach is internationally established at the highest level whose employment will make a significant contribution to the development of his sport at the highest level in the UK, and that the post could not be filled by a suitable settled worker.”

152. In Appendix A, renumber pre-existing paragraphs 100(c) and 100(d) as 100(d) and 100(e) respectively.

153. In Appendix A, delete paragraphs 110 and 111 and substitute:

“110. The migrant must not previously have applied for entry clearance or leave to remain using the same Certificate of Sponsorship reference number, regardless of whether that previous application was successful.

111. In addition, where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in creative and sporting subcategory of a Tier 5 (Temporary Worker) route to enable the applicant to work as a sportsperson:

(a) The Certificate of Sponsorship Checking Service entry must show that the applicant has been endorsed by the Governing Body for his Sport (that is, the organisation which is specified in the UK Border Agency’s published guidelines as being the Governing Body for the sport in question), and

(b) The endorsement referred to in (a) above must confirm that the player or coach is internationally established at the highest level and/or will make a significant contribution to the development of his sport at the highest level in the UK, and that the post could not be filled by a suitable settled worker.”

154. In Appendix B, in paragraph 1, delete “(other than a Tier 1 (Investor) Migrant)” and substitute “(other than a Tier 1 (Exceptional Talent) Migrant who is applying for entry clearance or a Tier 1 (Investor) Migrant)”

155. In Appendix B, delete paragraph 2(a) (excluding the table) and substitute:

“(a) has the level of English language shown in the table below and:

(i) provides an original English language test certificate from an English language test provider approved by the Secretary of State for these purposes, which is within its validity date and clearly shows:

- (1) the applicant’s name,
- (2) the qualification obtained, which must meet or exceed the level shown in the table below in all four components (reading, writing, speaking and listening), unless the applicant was exempted from sitting a component on the basis of his disability, and
- (3) the date of the award, or

(ii) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, and:

- (1) provides the specified evidence as set out in the appropriate Tier 1 guidance, published on the UK Border Agency website, to show he has the qualification, and
- (2) UK NARIC has confirmed that the degree was taught or researched in English to level C1 of the Council of Europe’s Common European Framework for Language learning or above, or”

156. In Appendix B, after paragraph 3, insert:

“4. 10 points will only be awarded to an applicant who is applying for leave to remain as a Tier 1 (Exceptional Talent) Migrant if the applicant meets the requirements of paragraphs 6 to 9 below.”

157. In Appendix B, renumber pre-existing paragraph 4 as paragraph 5.

158. In Appendix B, in the heading above pre-existing paragraph 5, after “**Tier 2 Migrants**” insert “**and Tier 1 (Exceptional Talent) Migrants**”.

159. In Appendix B, delete pre-existing paragraphs 5 to 6 and Tables 1 to 2 and substitute:

“6. 10 points will only be awarded to an applicant if:

(a) The applicant has the level of English shown in the table below and:

(i) provides an original English language test certificate from an English language test provider approved by the Secretary of State for these purposes, which is within its validity period and clearly shows:

- (1) the applicant’s name,
- (2) the qualification obtained, which must meet or exceed the level that the Secretary of State specifies in the guidance as being required to meet the standard laid down in the table below in all four components (reading, writing, speaking and listening), and;
- (3) the date of the award, or

(ii) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet the recognised standard of a Bachelor’s degree in the UK, and

- (1) provides the specified evidence to show he has the qualification, and
- (2) UK NARIC has confirmed that the degree was taught or researched in English to level C1 of the Council of Europe’s Common European Framework for Language learning or above, or

(iii) in the cases referred to in row 1 of the table below, the applicant has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor’s or Master’s degree in the UK, and provides the specified evidence to show that:

- (1) he has the qualification, and
- (2) the qualification was taught or researched in English,

and

(b) one or more of paragraph 2(b)-2(e), 7 or 8 applies to the applicant.

Row	Route	Level of English language	Points
1.	Applications for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, other than the cases referred to in paragraph 5(b) above Applications for leave to remain as a Tier 2 (General) Migrant where the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as: <ol style="list-style-type: none"> (i) a Tier 2 (General) Migrant under the Rules in place before 6 April 2011, (ii) a Qualifying Work Permit Holder, (iii) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, (iv) a Member of the Operational Ground Staff of an Overseas-owned Airline, or (v) a Jewish Agency Employee, and All applications for entry clearance or leave to remain as a Tier 2 (Sportsperson) Migrant	Competence of English to a basic user standard, including the ability to understand and use familiar everyday expressions, to introduce himself and others and to ask and answer questions about basic personal details.	10
2.	Applications for entry clearance and all other applications for leave to remain as a Tier 2 (General) Migrant Applications for leave to remain as a Tier 1 (Exceptional Talent) Migrant	A level of English equivalent to level B1 of the Council of Europe’s Common European Framework for Language Learning or above.	10
3.	All applications for entry clearance or leave to remain as a Tier 2 (Minister of Religion) Migrant	A level of English equivalent to level B2 of the Council of Europe’s Common European Framework for Language Learning or above.	10

7. 10 points will be awarded in the cases referred to in row 1 of the table above if the applicant has ever been granted:

(a) entry clearance, leave to enter or leave to remain as a Minister of Religion, provided that leave was granted on or after 23 August 2004, or

(b) entry clearance, leave to enter or leave to remain as a Tier 2 (General), Tier 2 (Intra-Company Transfer) or Tier 2 (Sportsperson) Migrant, provided that when he was granted that leave he obtained points for English language from paragraph 6(a), 6(b), or

(c) entry clearance, leave to enter or leave to remain as a Tier 2 (Minister of Religion) migrant, provided that when he was granted that leave he obtained points for English language from paragraph 6(a) or (b) above, or paragraph 10 below.

8. 10 points will be awarded if the applicant:

(a) is applying for leave to remain as a Tier 2 (General) or a Tier 2 (Intra-Company Transfer) Migrant,

(b) has, or was granted entry clearance, leave to enter or leave to remain as:

(i) a Jewish Agency Employee,

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

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

(iv) a Qualifying Work Permit Holder,

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

less than 5 years before the date that his last grant of entry clearance, leave to enter or leave to remain expires, and

(c) has not been granted leave in any categories other than those listed in (b) above under the rules in place since 28 November 2008.

9. 10 points will be awarded in the cases referred to in row 2 of the table above if the applicant has ever been granted:

(i) leave as a Tier 2 (General) Migrant under the Rules in place on or after 6 April 2011, provided that when he was granted that leave he obtained points for the level of English language in row 2 of the table above,

(ii) leave to remain as a Tier 1 (Exceptional Talent) Migrant, or

(ii) leave as a Tier 2 (Minister of Religion) Migrant, provided that when he was granted that leave he obtained points for English language from this paragraph, paragraph 6(a) or 6(b) above, or paragraph 10 below.

10. 10 points will be awarded in the cases referred to in row 3 of the table above if the applicant has ever been granted leave as:

(i) a Minister of Religion, provided the leave was granted on or after 19 April 2007, or

(ii) a Tier 2 (Minister of Religion) Migrant, provided that when he was granted that leave he obtained points for English language from paragraph 6(a), 6(b) or 10(a) above.

11. 10 points will be awarded if the applicant:

(a) is applying for leave to remain as a Tier 2 (Minister of Religion) Migrant,

(b) has been granted entry clearance, leave to enter and/or leave to remain as a Minister of Religion, Missionary or Member of a Religious Order less than 5 years before the date that his last grant of entry clearance, leave to enter or leave to remain expires, and

(c) has not been granted leave in any categories other than those listed in (b) above under the rules in place since 28 November 2008.”

160. In Appendix C, at the end of paragraph 1A(d), delete “and”

161. In Appendix C, after paragraph 1A(e), insert:

“(f) Where the funds are in one or more foreign currencies, the applicant must have the specified level of funds when converted to pound sterling (£) using the spot exchange rate which appears on www.oanda.com* for the date of the application;

(g) Where the applicant is applying as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant, the funds must have been under his own control on the date of the application and for the period specified in (b) above; and

(h) Where the application is made at the same time as applications by the partner or child of the applicant (such that the applicant is a Relevant Points Based System migrant for the purposes of paragraph 319AA), each applicant must have the total requisite funds specified in the relevant parts of Appendices C and E. If each applicant does not individually meet the requirements of Appendices C and / or E, as appropriate,

all the applications (the application by the Relevant Points Based System Migrant and applications as the partner or child of that Relevant Points Based System Migrant) will be refused.”

162. In Appendix C, in paragraph 1, after “as a Tier 1 (Investor) Migrant” insert “or a Tier 1 (Exceptional Talent) Migrant”
163. In Appendix C, in paragraph 5(c), delete “Table 10 of Appendix A” and substitute “Table 11A of Appendix A”
164. In Appendix C, delete paragraph 5(d) and substitute:

“(d) the Sponsor is an A rated Sponsor and has certified on the Certificate of Sponsorship that, should it become necessary, it will maintain and accommodate the migrant up to the end of the first month of his employment. The sponsor may limit the amount of the undertaking but any limit must be at least £800. Points will only be awarded if the applicant provides a valid Certificate of Sponsorship reference number with his application.”
165. In Appendix C, in the table following paragraph 9, after “Tier 5 (Temporary Worker) Migrant.” insert “Points will only be awarded if the applicant provides a valid Certificate of Sponsorship reference number with his application.”
166. In Appendix C, in paragraph 12, delete each instance of “London” and substitute “inner London”
167. In Appendix C, after paragraph 12 insert:

“12A. If the length of the applicant’s course includes a part of a month, the time will be rounded up to the next full month. For example, if a course is seven months and two weeks, the applicant must show that he has the specified funds for eight months.”
168. In Appendix E, in paragraph (a), after “as a Tier 1 (Investor) Migrant” insert “or a Tier 1 (Exceptional Talent) Migrant”
169. In Appendix E, in paragraph (b)(ii), after “as a Tier 1 (Investor) Migrant” insert “, a Tier 1 (Exceptional Talent) Migrant”
170. In Appendix E, in paragraph (g), after “as a Tier 1 (Investor) Migrant” insert “or a Tier 1 (Exceptional Talent) Migrant”
171. In Appendix E, delete paragraph (i)(3) and substitute:

“(3) that Sponsor has certified on the Certificate of Sponsorship that, should it become necessary, it will maintain and accommodate the dependants of the Relevant Points Based System Migrant up to the end of the first month of the Relevant Points Based System Migrant’s employment. The undertaking may be limited provided the limit is at least £533 per dependant. If the Relevant Points Based System Migrant is applying at the same time as the applicant, points will only be awarded if the Relevant Points Based System Migrant provides a valid Certificate of Sponsorship reference number with his application.”
172. In Appendix E, after paragraph (j), insert:

“(k) Where the funds are in one or more foreign currencies, the applicant must have the specified level of funds when converted to pound sterling (£) using the spot exchange rate which appears on www.oanda.com* for the date of the application.

(l) Where the application is one of a number of applications made at the same time as a partner or child of a Relevant Points Based System Migrant (as set out in paragraphs 319A and 319F) each applicant, including the Relevant Points Based System migrant if applying at the same time, must have the total requisite funds specified in the relevant parts of Appendices C and E. If each applicant does not individually meet the requirements of Appendices C and / or E, as appropriate, all the applications (the application by the Relevant Points Based System Migrant and applications as the partner or child of that Relevant Points Based System Migrant) will be refused.”



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 16 MARCH 2011 (HC 863)**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the Instrument

2.1 The purposes of these changes are:

- To create a new Prospective Entrepreneur category, for those coming to the UK to seek funding or to create a team for a new business idea;
- To create a new category in Tier 1 of the Points-Based System for exceptionally talented economic migrants;
- To close the Tier 1 (General) category in-country, other than for extension applications from migrants who are already in the UK in this category, or one of the categories, now closed, which preceded it before the introduction of the Points-Based System;
- To implement changes to the Tier 1 categories for Entrepreneurs and Investors, including provisions for accelerated settlement;
- To implement changes to the Tier 2 (Intra-Company Transfer) category, including differing requirements for transfers depending on whether they are to be for more or less than 12 months;
- To implement changes to the Tier 2 (General) category, including an annual limit relating to applications from overseas, and revised minimum skill, salary and English language thresholds;
- To apply a new criminality threshold to settlement applications, requiring applicants to be clear of unspent convictions;
- To apply to settlement applications made by skilled and highly skilled migrants the income criteria that applied when they last extended their permission to stay, and to require such applicants to pass the 'Life in the UK' test prior to gaining settlement, except those applying under transitional arrangements;
- To bring various existing Points-Based System requirements within the Immigration Rules, further to the judgment in *Pankina & others v SSHD* [2010] EWCA Civ 719;
- To reduce the re-entry ban for those who voluntarily leave the UK promptly and at public expense;
- To create an entry route for the post-flight family members of refugees and those granted humanitarian protection;
- To exempt diplomatic and special passport holders from Qatar, the United Arab Emirates and Oman from the visa requirement for visitors; and
- To make a small number of corrections and technical changes to the rules.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments

- 3.1 The Committee is invited to note that this Statement of Changes makes a number of significant changes to Tier 1 and Tier 2 the Points-Based System to implement the Government's strategy for reducing non-EEA economic migration.
- 3.2 The Committee is further invited to note that this Statement of Changes is accompanied by amended guidance which is being published on the UK Border Agency website at www.ukba.homeoffice.gov.uk/ and www.ukba.homeoffice.gov.uk/sitecontent/documents/ on the same date as these rules are laid before Parliament, namely 16 March 2011.

4. Legislative Context

- 4.1 The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 for regulating entry into, and stay of persons in, the United Kingdom.
- 4.2 This Statement of Changes in Immigration Rules has been incorporated into a consolidated version of the Immigration Rules, which can be found under the 'Policy and Law' page at www.ukba.homeoffice.gov.uk, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.
- 4.3 The changes in this Statement shall take effect on 6 April 2011. However, in respect of all paragraphs of this statement with the exception of paragraphs 128 and 139 to 142, if an applicant has made an application for entry clearance or leave before 6 April 2011 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 5 April 2011.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As this Statement of Changes in the Immigration Rules is subject to a negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

What is being done and why

- 7.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

Prospective Entrepreneur

- 7.2 A new form of visitor category is being created to allow prospective entrepreneurs to enter the UK in order to obtain funding and build their teams, if they are not yet ready to establish their business and cannot therefore qualify under the Tier 1 (Entrepreneur) category.
- 7.3 To provide prospective entrepreneurs with a smooth and effective transition, migrants who are in the UK as Prospective Entrepreneurs will be able to switch in-country into the full Tier 1 (Entrepreneur) category, providing they meet the criteria.

Amendments to Tier 1 of the Points Based System

- 7.4 Tier 1 of the Points-Based System caters for highly skilled workers, and was launched on 29 February 2008. Tier 1 has previously consisted of four categories: Tier 1 (General), Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Post-Study Work).

7.5 These changes introduce a fifth Tier 1 category, Tier 1 (Exceptional Talent), which caters for those who have won international recognition in scientific and cultural fields, or who show exceptional promise. This new category will operate as follows:

- Applicants will score attribute points for being endorsed by a Designated Competent Body, which will be listed on the UK Border Agency website.
- It will be for the Designated Competent Bodies to agree with the UK Border Agency the criteria they will operate to select those who will qualify for endorsement. It will also be for the competent bodies to define the sorts of organisations or individuals who can approach them on behalf of a prospective applicant.
- As the route is new there will be a limit of 1,000 grants of entry clearance in the first year of operation, and no provision for switching from other categories by in-country applicants. These limits will be reviewed in time for April 2012.
- The Designated Competent Bodies will be limited to granting 1,000 endorsements in the first year of operation. 700 endorsements will be allocated for endorsements in the field of science, and 300 for endorsements in the field of the arts. The endorsements will be divided equally between the Designated Competent Bodies in each field as agreed between the Secretary of State and those Designated Competent Bodies.
- Migrants seeking entry under the Tier 1 (Exceptional Talent) category will not need sponsorship by an employer and will not therefore need to have a specific job offer.
- Applicants for entry clearance will need to demonstrate maintenance funds but will not be required to demonstrate competence in the English language or maintenance funds.
- Qualifying applicants will initially be granted entry clearance for 3 years and 4 months. Subject to any future changes in the Immigration Rules, they will be able to apply to extend their stay for a further two years and apply for settlement after five years' residence in the UK. Applicants for extension will be required to demonstrate competence in the English language to level B1 of the Council of Europe's Common European Framework for Language Learning or above. They will not be required to demonstrate maintenance funds. Their extension and settlement applications will be refused if the Designated Competent Body which endorsed their initial application opposes the application on the grounds that the applicant is not operating in their expert field.
- Leave will be granted subject to the same conditions as leave under the Tier 1 (General) category. Applicants will be able to undertake any work, other than as a doctor or dentist in training or as a sports person or sports coach. These restrictions are intended to prevent controls in Tier 2 of the Points-Based System for these types of work from being undermined.

7.6 The following changes are being made to the Tier 1 (General) category, which caters for migrants who wish to find highly skilled employment or self-employment in the UK:

- The category is being closed to in-country switching applications. This is in line with the Home Secretary's oral statement to the House of Commons on 23 November. Closing the Tier 1 (General) category creates more space in Tier 2 of the Points Based System, the route most valued by employers, while reducing overall non-EEA economic migration. Tier 1 (General) has already closed to overseas applicants, as set out in the Statement of Changes laid on 21 December 2010 (HC 698).
- The category is remaining open in order to enable those in the UK with existing leave under Tier 1 (General), or one of its pre-Points Based System predecessor categories, to extend their leave. The predecessor categories in question are the Highly Skilled Migrant Programme (HSMP); Writers, Composers and Artists; and Self-Employed Lawyers.

- When the points threshold for initial Tier 1 (General) applicants was raised to 100 points in July 2010, the extension criteria for those applicants were not amended in line. Previous changes to Tier 1 (General) have applied the same criteria to extension applications as to initial applications. An amendment is being made so that when applicants who were initially required to score 100 points apply for extensions, they will need to score 100 points again at that stage. Applicants who were initially required to score 95 points will continue to be required to score 95 points at the extension stage.
 - Applicants for indefinite leave to remain as a Tier 1 (General) Migrant will also be required to pass the same points test as they had to pass when they applied for further leave to remain. This effectively means that applicants will need to have achieved the same minimum level of earnings as they had to achieve in their previous application.
 - The Tier 1 (General) rules were originally constructed to provide for one initial application and one extension per applicant. This does not cater adequately for migrants who wish to apply for a second extension, as they may find themselves subject to new, tighter requirements. Amendments are being made to the Tier 1 (General) points tables to ensure applicants who apply for a second extension continue to be subject to the same points requirements as they had to achieve in their previous application.
 - The multipliers for overseas earnings and the transitional provisions for qualifying MBAs are being deleted, as they do not apply to any of the applicants for whom the category is remaining open.
- 7.7 The following changes are being made to the Tier 1 (Entrepreneur) category, which caters for those investing in the UK by setting up or taking over, or being actively involved in the running of, a business:
- As stated in 7.3 above, migrants who are in the UK under the new Prospective Entrepreneur category will be able to apply to switch into the Tier 1 (Entrepreneur) category without returning overseas.
 - At present an entrepreneur must have access to at least £200,000 in order to enter through this category. While this figure is achievable for many entrepreneurs it can prove to be a barrier for new entrepreneurs with limited initial funding needs. This is being remedied by allowing entrepreneurs to qualify with at least £50,000 as long as that funding was provided by one or more:
 - Registered venture capitalists regulated by the Financial Services Authority (FSA);
 - Registered UK entrepreneurial seed funding competitions; and/or
 - UK Government Departments.
 - As a further flexibility, the current requirement for Tier 1 (Entrepreneur) Migrants to register their business within 3 months of entry is being extended to 6 months.
 - A change is being made to enable pairs of entrepreneurs to be able to access this category without the need for increased levels of funding. Both entrepreneurs will need equal access to the required funds.
 - To prevent controls in Tier 2 of the Points-Based System from being undermined, Tier 1 (Entrepreneur) Migrants will not be able to work as a sports person or sports coach.
 - To reward success, an amendment is being made to enable Tier 1 (Entrepreneur) Migrants to qualify for accelerated settlement after 3 years (rather than the usual 5 years). Applicants will qualify if they have created:
 - the equivalent of 10 full-time jobs; or

- at least £5 million in income from business activity within a 3 year period.
 - To reduce the likelihood of applicants needing to apply for additional extensions in order to reach the qualifying period for settlement, the period of entry clearance in this category is being increased from 3 years to 3 years and 4 months.
 - Tier 1 (Entrepreneur) Migrants will be permitted to be absent from the United Kingdom for up to 180 days in any 12 months, without jeopardising their applications for settlement.
 - This category is not being made subject to an annual limit.
- 7.8 The following changes are being made to the Tier 1 (Investor) category, which caters for high net worth individuals making a substantial financial investment in the UK:
- An amendment is being made to enable Tier 1 (Investor) Migrants to qualify for accelerated settlement if they have invested:
 - A sum of £10 million or more for two years, or
 - A sum of £5 million or more for three years.
 - Tier 1 (Investor) Migrants continue to qualify for indefinite leave to remain after five years if they have invested £1 million in the UK
 - As with Tier 1 (Entrepreneur), to reduce the likelihood of applicants needing to apply for additional extensions in order to reach the qualifying period for settlement, the period of entry clearance in this category is being increased from 3 years to 3 years and 4 months.
 - Also as with Tier 1 (Entrepreneur), Tier 1 (Investor) Migrants will be permitted to be absent from the United Kingdom for up to 180 days in any 12 months, without jeopardising their applications for settlement.
 - This category is not being made subject to an annual limit.
- 7.9 No changes, other than those set out in 7.16 and 7.17 below, are being made to the Tier 1 (Post-Study Work) category, which caters for international graduates who have studied in the UK and wish to work following their graduation.

Amendments to Tier 2 of the Points Based System

- 7.10 Tier 2 of the Points-Based System caters for skilled workers with a job offer, and was launched on 28 November 2008. Tier 2 consists of four categories: Tier 2 (General), Tier 2 (Intra-Company Transfer), Tier 2 (Ministers of Religion) and Tier 2 (Sportsperson).
- 7.11 The following changes are being made to the Tier 2 (Intra-Company Transfer) category, which caters for skilled workers moving from an overseas branch of a company to a UK branch:
- The minimum skill threshold of jobs which may be sponsored under this category is being raised from jobs at NQF level 3 (roughly equivalent to A-level) to jobs at graduate level.
 - Applicants will no longer be required to submit evidence of their academic or vocational qualifications.
 - The pre-existing Established Staff sub-category is being split into two new sub-categories: Short Term Staff and Long Term Staff.
 - Short Term Staff applicants may be granted leave in the UK for a maximum of 12 months, after which time they will be required to spend a minimum 12 months overseas before they can return in this sub-category. A minimum salary threshold of £24,000 will be applied and, in addition, the salary must be equivalent to the UK appropriate rate for the job.

- Long Term Staff applicants may be granted leave in the UK for a maximum of 3 years and 1 month, with a possible extension up to a maximum of 5 years, after which time they will be required to spend a minimum 12 months overseas before they can return as a Tier 2 (Intra-Company Transfer) Migrant. A minimum salary threshold of £40,000 will be applied and, in addition, the salary must be equivalent to the UK appropriate rate for the job.
- The pre-existing Graduate Trainee and Skills Transfer sub-categories will continue to exist, and will be subject to the same requirements as the Short Term Staff sub-category in terms of the £24,000 minimum salary threshold and the requirement to spend 12 months overseas before returning in either of these categories or the Short Term Staff sub-category.
- Applicants will not be able to switch between sub-categories while they are in the UK. However, a Tier 2 (Intra-Company Transfer) migrant who has previously had leave in one of the Short Term Staff, Graduate Trainee or Skills Transfer sub-categories will not be required to spend 12 months overseas before they can return in the Long Term Staff sub-category.
- As a transitional arrangement, Tier 2 (Intra-Company Transfer) Migrants who are already in the UK under the Rules in place before 6 April 2011 will be able to apply to extend their stay without being subject to the new graduate level job requirement or the new salary thresholds. Those who are currently here in the Established Staff sub-category can continue to apply extend their stay beyond five years.
- In the transitional cases where Tier 2 (Intra-Company Transfer) Migrants qualify for indefinite leave to remain, an additional requirement is being introduced to confirm that the applicant continues to earn at least the UK appropriate rate for the job they are doing.
- This category is not being made subject to an annual limit.

7.12 The following changes are being made to the Tier 2 (General) category, which caters for skilled workers coming to do jobs that cannot be filled from the resident labour market:

- An annual limit of 20,700 is being placed on the number of overseas applicants who may be sponsored under this category in the period 6 April 2011 to 5 April 2012.
- This limit excludes in-country applications for leave to remain, and any applications where the job being sponsored has a salary of £150,000 or above.
- The size of the limit has been established following advice from the Migration Advisory Committee and will be reviewed by 6 April 2012.
- To prevent the limit being exhausted early in the year, it will be divided into monthly allocations. Each month, requests by sponsoring employers to sponsor Tier 2 (General) applicants will be scored against a new points table, with the allocation going to the highest-scoring requests.
- This system will prioritise shortage occupations in the first instance. Occupations requiring higher academic qualifications, and jobs with high salaries will also be afforded a level of priority.
- If the limit is under-subscribed in any particular month (other than the last month of the annual limit), the unused surplus will be carried forward and added to the following month's allocation.
- If the limit is over-subscribed in any particular month, unsuccessful requests from sponsoring employers will not be carried forward, although it will be open to those employers to submit requests again in the following month. This will prevent backlogs from building up. There will be no charge to employers to make these requests.

- If verification checks are considered necessary, an employer request may be deferred until the following monthly allocation period while those checks are carried out, and refused if the information cannot be verified or is confirmed as false. An application may also be refused if a delay in completing the verification checks, such that the application cannot be granted in the following monthly allocation period, is due to a failure by the employer to co-operate with the verification process.
- There will be a degree of flexibility. If all requests scoring a particular number of points would cause a monthly limit (other than the last month of the annual limit) to be exceeded by 100 or less, the requests will be granted and the excess deducted from the following month's allocation. There will also be provision for urgent requests in exceptional circumstances.
- As with Tier 2 (Intra-Company Transfer), the minimum skill threshold of jobs which may be sponsored under this category is being raised from jobs at NQF level 3 (roughly equivalent to A-level) to jobs at graduate level.
- Also as with Tier 2 (Intra-Company Transfer), applicants will no longer be required to submit evidence of their academic or vocational qualifications.
- A minimum salary threshold of £20,000 is being applied.
- The English language requirement is being raised from basic user standard to intermediate level (B1 on the Council of Europe's Common European Framework for Language Learning).
- As a transitional arrangement, Tier 2 (General) Migrants, and those in pre-Tier 2 predecessor categories (such as Work Permit Holders) who are already in the UK under the Rules in place before 6 April 2011 will be able to apply to extend their stay without being subject to the annual limit, the new graduate level job requirement, the new salary threshold, or the new English language level. This applies whether they are extending with the same employer or changing employers.
- For consistency, the pre-existing transitional arrangements for applicants switching into Tier 2 from pre-Tier 2 predecessor categories (such as Work Permit Holders) are being widened to include changes of employment as well as extensions with the same employer. As with other Tier 2 (General) applications, a resident labour market test will be required for all changes of employment where the job is not a current shortage occupation. These applications are not subject to the annual limit.
- The provision for applicants to switch into Tier 2 who have or were last granted leave as a Student, a Student Re-Sitting an Examination, a Student Nurse, a Student Union Sabbatical Officer, or a Tier 4 Migrant is being restricted to applicants who have completed a course of study of at least one academic year in duration during that period of leave. The purpose of this is to ensure that such applicants are genuinely coming to the UK to study, and not simply to facilitate switching into Tier 2.
- The pre-existing provision for overseas-qualified nurses and midwives to switch from Tier 5 (Government Authorised Exchange) into Tier 2 (General) is being removed as it is not needed. The proposed Tier 5 (Government Authorised Exchange) scheme for overseas-qualified nurses and midwives was never set up and alternative provision for these individuals was established in Tier 2 (General).
- An additional requirement is being introduced for indefinite leave to remain applications to confirm that the applicant continues to earn at least the UK appropriate rate for the job they are doing.

Amendments to applications for indefinite leave to remain

7.13 In addition to the specific changes to applications for indefinite leave to remain by Tier 1 and Tier 2 Migrants set out above, the following changes are being made:

- As with Tier 2 (General) Migrants, Work Permit Holders applying for indefinite leave to remain will need to provide confirmation that they continue to earn at least the UK appropriate rate for the job they are doing.
- A new criminality threshold is being introduced requiring applicants applying for indefinite leave to remain to be clear of unspent convictions.
- Skilled and highly skilled migrants will be required to pass the ‘Life in the UK’ test prior to gaining indefinite leave to remain. This applies to the following categories, except where transitional arrangements apply:
 - Work Permit Holders
 - Highly Skilled Migrant Programme (other than those covered by the HSMP ILR Judicial Review Policy Document)
 - Representatives of overseas newspapers, news agencies or broadcasting organisations
 - Representatives of overseas businesses
 - Overseas government employees
 - Ministers of religion, missionaries or members of religious orders
 - Airport based operational ground staff of overseas-owned airlines
 - Persons intending to establish themselves in business
 - Innovators
 - Persons intending to establish themselves in business under provisions of EC Association Agreements
 - Investors
 - Writers, Composers and Artists
 - Tier 1 Migrants (Exceptional talent), Tier 1 (General) Migrants, Tier 1 (Entrepreneur) Migrants, Tier 1 (Investor) Migrants
 - Tier 2 (Intra company transfers) Migrants, Tier 2 (General) Migrants, Tier 2 (Minister of Religion) Migrants, Tier 2 (sportsperson) Migrant
- Transitional arrangements are set out with regards to the requirement to pass the Life in the UK Test for those people applying for indefinite leave to remain in one of the categories listed above. The effect of these is that:
 - Where an applicant had enrolled on an ESOL course or gained an ESOL qualification prior to 23rd November 2010 (the date on which the Home Secretary announced her intention to change the rules for these categories), that applicant will be able to rely on an ESOL qualification to meet the requirement to demonstrate sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom for any future application for indefinite leave to remain under one of the categories listed in 33BA.

- An applicant who enrolled on an ESOL course after 23rd November 2010 and applies for indefinite leave to remain in one of the categories listed above after 6th April 2011 will have to pass the Life in the UK Test.
- An applicant who enrolled on an ESOL course after 23rd November 2010 and who gains an ESOL qualification can continue to use that qualification in an application for indefinite leave to remain in one of the categories listed above if that application is made before 6th April 2011.
- Technical changes are being made to the provisions for indefinite leave to remain applications by the spouse or civil partner of a person who is present and settled here. These amendments add other relevant Tiers of the Points-Based System into the rules (the pre-existing rules refer to dependants of Tier 1 Migrants only).
- Technical changes are being made to the provisions for indefinite leave to remain applications by dependants of Points Based System Migrants. These amendments allow dependants who are not applying at the same time as the main applicant to qualify for indefinite leave to remain as dependants of Points Based System Migrants, rather than as dependants of persons present and settled in the UK. This is consistent with indefinite leave to remain provisions for dependants in all other economic migration categories. These amendments also add this provision for other relevant Tiers of the Points-Based System (The pre-existing rules refer to dependants of Tier 1 Migrants only).

Amendments to bring existing requirements into the Immigration Rules

- 7.14 Legal challenges have been brought against the Government regarding the extent to and manner in which various Points-Based System requirements are specified in UK Border Agency guidance rather than in the Immigration Rules.
- 7.15 The requirements of the Points Based System that featured in those challenges which the Government was unsuccessful in defending have since been brought within the Immigration Rules.
- 7.16 The Secretary of State considers that the rules and guidance as currently structured are lawful. However, for the avoidance of any doubt and without prejudice to any future position the Secretary of State may take in litigation on this point, these changes bring the following existing minor details and clarifications, which have previously been specified in UK Border Agency guidance, within the Immigration Rules:
- Under Tier 1 (General):
 - That points will not be awarded for qualifications obtained while the applicant was in breach of the UK's immigration laws;
 - Clarification of the types of dividends which are acceptable for the award of points for previous earnings;
 - Clarification that allowances will only be counted towards previous earnings where they are part of the remuneration package and appear on the applicant's payslips;
 - That specified documents from two or more sources must be provided as evidence for each source of previous earnings;
 - That, if an individual is claiming earnings from self-employment in the UK, they must demonstrate that they are registered for self-employment in the UK.

- Under Tier 1 (Entrepreneur):
 - That specified evidence that the applicant is engaged in business activity must show that he has been engaged in business activity within the three months before the date of application;
 - The definition of what is accepted to be a UK business;
 - That jobs created by the entrepreneur must comply with all relevant UK legislation.
- Under Tier 1 (Investor):
 - That points will only be awarded if the applicant has had the funds for a consecutive 90-day period of time, ending no earlier than one calendar month before the date of application, and provides the specified evidence, or provides additional specified evidence of the source of the money or assets;
 - That funds contributed by the applicant's partner are only acceptable if the partner meets all the requirements for applying as a partner of a Points Based System Migrant;
 - That the investment must have been made in the applicant's name and/or their partner's name, not in the name of an offshore company or trust even if this is wholly owned by the applicant.
 - Clarification of the types of investment which are unacceptable for the award of points.
- Under both Tier 1 (Entrepreneur) and Tier 1 (Investor):
 - That funds that the applicant claims are available but that have not been converted to money will not be accepted for the award of points;
 - That initial leave can only be granted in relation to new investments. If the money has already been invested in the UK, points will only be awarded if this happened no more than 12 months before the application was made.
- Under Tier 1 (Post-Study Work):
 - That, if the applicant is claiming points for a qualification from a Scottish institution, the institution must be on the list of Education and Training Providers list which can be found on the Department of Business, Innovation and Skills website, or hold a Sponsor licence under Tier 4 of the Points Based System;
 - That, where the institution studied at is removed from one of the relevant lists, points will not be awarded for any award completed after the date the institution was removed from the relevant list.
- Under Tier 2:
 - Clarification that the lists of skilled occupations, shortage occupations, appropriate salary rates and resident labour market test requirements, published by the UK Border Agency, may be amended from time to time. These amendments are normally made to reflect the latest available labour market evidence;
 - Clarification of the types of allowances that are considered for the award of points for appropriate salary;
 - That a Certificate of Sponsorship which has been used to support an application cannot be re-used to support another application, regardless of whether or not the first application was successful.

- Under Tier 2 and Tier 5, clarification of the minimum skill level for sportspeople.
- Under the maintenance requirement for Points Based System Migrants and their dependants:
 - That the exchange rate of overseas currency will be made using the rate on www.oanda.com on the date of application.
 - That, if an applicant is claiming points for maintenance because his Sponsor has certified that it will provide support if required, no points will be awarded unless the Sponsor has certified this on the Certificate of Sponsorship, and the Certificate of Sponsorship is valid.
 - That, under Tier 4, where the funds required for maintenance depend on the length of the course, the length of the course will be rounded up to the next full month.
 - That, under Tier 4, where the funds required for maintenance depend on where the applicant is studying, references to specified London boroughs are being amended to specified inner London boroughs.

Other family members of refugees and beneficiaries of humanitarian protection

- 7.17 A new provision for other family members of refugees and beneficiaries of humanitarian protection is being added to Part 8 of the Rules. Where a refugee or beneficiary of humanitarian protection has only limited leave to remain in the UK, the Rules do not currently allow that person to be joined by any family members who became part of the family after that person moved to the UK. Currently there is only a route for these family members if the sponsor is already “present and settled” in the UK. In these circumstances, the “post-flight” family member only qualifies for admission if the refugee or beneficiary of humanitarian protection has indefinite leave to remain.
- 7.18 Following the decision in *FH (Post-flight spouses) Iran* [2010] UKUT 275 (IAC) a route has been created for the spouse, civil partner, unmarried or same sex partner or minor children of a person with limited leave to enter or remain in the UK as a refugee or as a person with humanitarian protection, so that they can apply for entry clearance on the same basis as those family members whose sponsor is present and settled in the UK. This means in particular that they would have to be able to be maintained and accommodated by the refugee or beneficiary of humanitarian protection without recourse to public funds and would have to meet the pre-entry English language requirement that is currently required for spouses, civil partners and unmarried partners under the Rules. Additionally a family member may apply for indefinite leave to remain in the same way as those entering through the normal settlement route provided the sponsor is present and settled in the UK and also has indefinite leave to remain.

Amendments to the Asylum Rules (family reunion)

- 7.19 Changes have been made to the refugee family reunion rules in paragraphs, 352AA and 352FD. These apply to the pre-flight family members of a refugee or person with Humanitarian Protection, unlike the changes referred to in paragraphs referred to in paragraphs 7.17 to 7.18 (above) which apply to post-flight family members.
- 7.20 A new provision is being made to prevent entry clearance being granted to the unmarried or same sex partner of a refugee or person with humanitarian protection if the applicant and the sponsor are involved in a consanguineous relationship with one another, meaning that they must not be so closely related that they would be prohibited from marrying each other in the UK. This change is being made to provide consistency with the provisions for those family members who are entering the UK under the other route.

Amendments to the visa requirements for Oman, Qatar and the United Arab Emirates

- 7.21 The UK values close co-operation with Oman, Qatar and the United Arab Emirates and these amendments to the UK's visa requirements will allow greater flexibility and ease of travel for those who are entering as visitors and hold diplomatic and special passports.
- 7.22 The changes will be of interest in the countries concerned.
- 7.23 These changes reflect a need to deepen relationships between the UK and the said countries whilst ensuring that the security of the UK border is upheld.

Amendments to the rule for grounds on which entry clearance or leave to enter the UK is to be refused

7.24 Paragraph 320 of the Immigration Rules sets out the general grounds for the refusal of entry clearance, leave to enter, or variation of leave to enter or remain in the UK. Under Paragraph 320(7B), a person seeking entry clearance or leave to enter the UK who has previously broken the law by illegally entering, breaching a condition attached to leave or overstaying for more than 28 days is subject to a re-entry ban and will be refused entry clearance or leave to enter unless they fall within one of the exceptions set out in the Rules. There are three levels of ban:

- 12 months – for voluntary departures not at public expense;
- 5 years – where departure was voluntary but was at public expense (including an Assisted Voluntary Return);
- 10 years – where enforced removal or deportation was carried out.

7.25 For those who have left the UK any subsequent application under the Rules to re-enter the UK within the term of the re-entry ban will fall for mandatory refusal unless they meet one of the exceptions listed in paragraph 320(7C) of the rules. The mechanism is designed to set out a clear period during which a previous immigration offender will have any future applications to come to the UK refused.

7.26 The change to paragraph 320(7B) will add a new intermediate level of entry ban of two years for those who leave the UK promptly and voluntarily, but at public expense (including those who leave via an Assisted Voluntary Return Programme). Individuals who wish to benefit from the reduced two year ban must depart the UK voluntarily no more than 6 months from the date on which they were served notice of their removal decision, or no more than 6 months from the date of the exhaustion of their appeal rights against that decision, whichever is the later date. Those who delay their departure (beyond this time) will continue to be subject to the 5 year ban.

7.27 This change is designed to encourage compliance and bring cases to a conclusion earlier by providing a clear incentive to depart sooner. This change may increase voluntary departures and encourage early participation in Assisted Voluntary Return programmes.

Other amendments

7.28 An amendment is being made to the restriction against working as a doctor or dentist in training which applies in various categories. Previously, an applicant who was previously restricted from working as a doctor in training, but not restricted from working as a dentist in training, would be restricted from working as either in a subsequent application. This amendment corrects that position and ensures that those who were previously working lawfully as a dentist in training in the UK can continue to do so when they apply to extend their stay in the UK. It also corrects the exemption from the restrictions for applicants who have obtained degrees in medicine or dentistry obtained to clarify that the provision applies to primary degrees only. The categories affected by these changes are:

- Tier 1 (General)

- Tier 1 (Investor)
 - Tier 1 (Post-Study Work)
 - Dependents of migrants under the Points Based System and its predecessor economic migration categories
- 7.29 A correction is being made to the English language requirements for Representatives of overseas businesses, Tier 1 Migrants and Tier 2 Migrants, to take account of the difficulties faced by UK NARIC in verifying whether a Masters degree or PhD from a non-majority English speaking country was taught in English to the required level.
- 7.30 The English language requirement for Tier 1 and Tier 2 is being amended such that, where an applicant uses an approved English language test certificate to meet the requirement, the certificate must be within its validity date and show that the applicant has passed all four components (reading, writing, speaking and listening) to the required standard, unless exempted from sitting a component on the basis of disability. This brings the requirement in line with that for Tier 4.
- 7.31 A correction to the Tier 5 rules is being made to take account of the provision that allows a Certificate of Sponsorship to be re-used for applications for leave to enter (but not for applications where entry clearance is required). The pre-existing rules do not allow re-use for applications for leave to enter and so this is being corrected.
- 7.32 A correction is being made to remove an unintended restriction which prevented a child, whose parents are a Points Based System migrant and a migrant in another category, from switching their status in the UK from the dependant of one parent to the dependant of the other parent.
- 7.33 Amendments are being made to the maintenance provisions for families who apply at the same time. Currently, if there are insufficient funds to maintain the whole family, part of the family must have their application(s) granted and the rest of the family must have their application(s) refused. These amendments allow the family to be considered as a unit in terms of maintenance, meaning that they may all be granted together if there are sufficient funds, or all refused together if there are not.
- 7.34 Other minor technical amendments to paragraphs 352AA, 352B, 352BA, 352C, 352CA, 352FD, 352FE and 352FF are being made to ensure the numbering of the new sub-paragraphs is reflected in the Rules.

8. Consultation

- 8.1 The changes to Tier 1 and Tier 2 of the Points-Based System have been developed following a full public consultation, “Limits on non-EU economic migration”, which ran from 28 June 2010 to 17 September 2010. A summary of the findings of this consultation is published on the UK Border Agency website at www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/limits-on-non-eu-migration/.
- 8.2 On 28 June 2010, the Secretary of State commissioned the Migration Advisory Committee to report on the following question:

“At what levels should limits on Tier 1 and Tier 2 of the Points Based System be set for their first full year of operation in 2011/12, in order to contribute to achieving the Government’s aim of reducing net migration to an annual level of tens of thousands by the end of this Parliament, and taking into account social and public service impacts as well as economic impacts?”

- 8.3 The Committee carried out its own consultation regarding this question, and published its report on 18 November 2010. The findings of the Committee's report have informed the changes to Tier 1 and Tier 2 of the Points-Based System. The report can be accessed on the UK Border Agency website at www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/mac-limits-t1-t2/
- 8.4 The UK Border Agency has consulted key stakeholders on the ongoing development of family reunion policy, of which these changes form a part. However, no formal public consultation has been undertaken in respect of these changes, given their relatively minor nature and the relatively small numbers likely to be affected by them.
- 8.5 From 1 June 2010, The UK Border Agency publicly consulted for six weeks to seek views on how children can be removed from the UK without the use of detention. 342 responses were received and many individuals and organisations identified the re-entry ban as a disincentive to voluntary departure. The review into ending the detention of children, our response to this consultation, was published on 16 December 2010.
- 8.6 Responding to the findings of the initial consultation, the proposal to amend re-entry bans was further consulted upon informally with a number of third parties including The Diana, Princess of Wales Memorial Fund; UNHCR; Bail for Immigration Detainees; the Refugee Council; Refugee-action; Medical Justice; and the Children's Society. Third parties consulted broadly view the new, lesser 2 year re-entry ban favourably. They continue to be consulted as part of ongoing work to update guidance for migrants, sponsors, and UK Border Agency staff on re-entry bans.
- 8.7 The amendments in respect of asylum and visa exemptions and other minor changes have not been subject to consultation as this would be disproportionate given the minor nature of the changes.

9. Guidance

- 9.1 Information on these changes will be made available to migrants, sponsors and UK Border Agency staff, through updates to websites and guidance.

10. Impact

- 10.1 An Impact Assessment on the changes has been published on the UK Border Agency website at www.ukba.homeoffice.gov.uk/policyandlaw/ia/
- 10.2 The changes to the Immigration Rules on asylum are minor clarifications to give better effect to the Secretary of State's existing policy. An Impact Assessment was not carried out on the changes to the Immigration Rules on asylum because there are no financial implications involved.
- 10.3 An impact assessment is not required for the amendment to the visa requirements on the re-entry ban as the impact is likely to be negligible.

11. Regulating small business

- 11.1 The changes to Tier 2 of the Points-Based System will apply to small businesses that are licensed as Tier 2 Sponsors.

12. Monitoring and review

- 12.1 The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of the changes in this Statement and lay a report before Parliament within five years after these changes come into force and within every five years after that, to the extent that the rules contained in this Statement of Changes remain in force at the review date. Following each review the Secretary of State will decide whether the changes

should remain as they are, or be revoked or be amended. A further Statement of Changes would be needed to revoke the changes or to amend them.

- 12.2 All the changes made by this Statement will be monitored on an on-going basis as part of the review of progress towards meeting the Government's commitment to reduce annual net migration from the level of hundreds of thousands to the level of tens of thousands.
- 12.3 The annual limits introduced by this Statement apply only to the period 6 April 2011 to 5 April 2012. These limits will be reviewed before 6 April 2012 and a further Statement of Changes will be laid before Parliament.
- 12.4 The exemptions from a visit visa requirement for Omani, Qatari and Emirati nationals holding Diplomatic and Special passports will be regularly monitored.

13. Contact

- 13.1 Queries specifically regarding this Statement of Changes only should be addressed as follows:
 - Points-Based System (other than settlement): to Richard Jackson at the UK Border Agency on 0114 207 8373 or email to: Richard.Jackson@homeoffice.gsi.gov.uk
 - Settlement: to Benjamin Brown at the UK Border Agency on 0208 760 2486 or e-mail to: Benjamin.Brown55@homeoffice.gsi.gov.uk
 - Asylum: to Fourentza Antoniou at the UK Border Agency on 0208 760 2534 or e-mail to: Fourentza.Antoniou3@homeoffice.gsi.gov.uk
 - Visas: Ann Williams at the UK Border Agency on 0207 035 4235 or email to: Ann.Williams@homeoffice.gsi.gov.uk
 - Re-entry ban: Mark Walsh at the UK Border Agency on 0208 760 2561 or Mark.Walsh@homeoffice.gsi.gov.uk
- 13.2 Other queries not related to this Statement of Changes, such as queries relating to individual cases, should be addressed as per the Contact page on the UK Border Agency website at www.ukba.homeoffice.gov.uk/contact/.