

# STATEMENT OF CHANGES IN IMMIGRATION RULES

*Presented to Parliament pursuant to section 3(2) of  
the Immigration Act 1971*

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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/](http://www.ukba.homeoffice.gov.uk/contact/)

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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), 24 April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 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), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908) , 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719) and 19 January 2012 (HC 1733).

### **Implementation**

The changes in paragraphs 179, 180, 181, 183, 186, 200, 201 and 210 set out in this Statement shall take effect on 14 June 2012. However, if an applicant has made an application for entry clearance or leave before 14 June 2012 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 13 June 2012.

The changes in paragraphs 213 shall be made to the Immigration Rules on 6 April 2012, but will not affect applications made. The changes in paragraph 213 archive old Rules which no longer apply.

The changes in paragraphs 214 to the criteria for Indefinite Leave to Remain made by migrants in the Tier 2 (General), Tier 2 (Sportspersons) and Tier 2 (Ministers of Religion) categories, are expected to take effect on 6 April 2016. Applications for Indefinite Leave to Remain made by migrants in these categories before this date will be considered in accordance with the rules which are in force before that date (which themselves may be subject to change in the interim period).

The other changes set out in this Statement shall take effect on 6 April 2012. However, if an applicant has made an application for entry clearance or leave before 6 April 2012 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 5 April 2012.

## Review

Before the end of each review period, the Secretary of State undertakes to review all of the relevant Immigration Rules including any Relevant Rule amended or added by these changes. The Secretary of State will set out the conclusions of the review in a report and publish the report.

The report must in particular:

- (a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- (b) 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 2012, and
- (b) subject to the paragraph below, each successive period of five years.

If a report under this provision is published 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 published.

“Relevant Rule” means an immigration rule which imposes a net burden (or cost) on business or civil society organisations.

## Changes

1. In paragraph 6, after the definition of “Highly Trusted Sponsor”, insert:

“Under paragraph 34K of these Rules, a **“Premium Sponsor”** is a Sponsor which is recorded as holding Premium status on the register of licensed Sponsors maintained by the United Kingdom Border Agency.”

2. In paragraph 6, delete the first definition of “Tier 1 (General) Migrant”
3. In paragraph 6, delete the definitions from the second definition of “Tier 1 (General) Migrant” to the definition of “Tier 2 Migrant” and substitute:

“**“Points Based System Migrant”** means a migrant applying for or granted leave as a Tier 1 Migrant, a Tier 2 Migrant, a Tier 4 Migrant or a Tier 5 Migrant.

**“Tier 1 Migrant”** means a migrant who is granted leave as a Tier 1 (Exceptional Talent) Migrant, a Tier 1 (General) Migrant, a Tier 1 (Entrepreneur) Migrant, a Tier 1 (Investor) Migrant, a Tier 1 (Graduate Entrepreneur) Migrant or a Tier 1 (Post-Study Work) Migrant.

**“Tier 1 (Exceptional Talent) Migrant”** means a migrant who is granted leave under paragraphs 245B to 245BF of these Rules.

"**Tier 1 (General) Migrant**" means a migrant who is granted leave under paragraphs 245C to 245CE of these Rules.

"**Tier 1 (Entrepreneur) Migrant**" means a migrant who is granted leave under paragraphs 245D to 245DF of these Rules.

"**Tier 1 (Investor) Migrant**" means a migrant who is granted leave under paragraphs 245E to 245EF of these Rules.

"**Tier 1 (Graduate Entrepreneur) Migrant**" means a migrant who is granted leave under paragraphs 245F to 245FB of these Rules in place on or after 6 April 2012.

"**Tier 1 (Post-Study Work) Migrant**" means a migrant who is granted leave under paragraphs 245F to 245FE of the Rules in place before 6 April 2012.

"**Tier 2 Migrant**" means a migrant who is granted leave as a Tier 2 (Intra-Company Transfer) Migrant, a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant.

"**Tier 2 (Intra-Company Transfer) Migrant**" means a migrant granted leave under paragraphs 245G to 245GF of these Rules.

"**Tier 2 (General) Migrant**" means a migrant granted leave under paragraphs 245H to 245HF of these Rules and who obtains points under paragraphs 76 to 84A of Appendix A.

"**Tier 2 (Minister of Religion) Migrant**" means a migrant granted leave under paragraphs 245H to 245HF of these Rules and who obtains points under paragraphs 85 to 92 of Appendix A.

"**Tier 2 (Sportsperson) Migrant**" means a migrant granted leave under paragraphs 245H to 245HF of these Rules and who obtains points under paragraphs 93 to 100 of Appendix A."

4. In paragraph 6, after the definition of "Tier 5 Migrant", insert:

"Under Part 6A of these Rules "**Government Authorised Exchange Scheme**" means a scheme under the Tier 5 (Temporary Worker) Government Authorised Exchange sub-category which is endorsed by a Government Department in support of Government objectives and provides temporary work in an occupation which 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, and where the migrant will be supernumerary.

Under Part 6A of these Rules "**Work Experience Programme**" means work experience including volunteering and job-shadowing, internships and work exchange programmes under a Government Authorised Exchange Scheme.

Under Part 6A of these Rules "**Research Programme**" means research programmes and fellowships under a Government Authorised Exchange Scheme where the migrant is working on a scientific, academic, medical, or government research project/s at either a

UK Higher Education Institution or another research institution operating under the authority and/or financial sponsorship of a relevant Government Department.”

“Under Part 6A of these Rules “**Training Programme**” means a training programme under a Government Authorised Exchange Scheme where the migrant either receives formal, practical training in the fields of science and / or medicine or meets the requirements of paragraph 245ZQ(b)(vi)(2) to(4).

Under Part 6A of these Rules, “**Temporary Engagement as a Sports Broadcaster**” means providing guest expert commentary on a particular sporting event.”

5. In paragraph 6, delete the definitions of “Tier 2 Interim Limit” and “Exceptional Consideration Process”

6. In paragraph 6, after the definition of “special visitor” insert:

“**A visitor undertaking permitted paid engagements**” is someone who is granted leave to enter under paragraphs 56X- 56Z of these Rules.

7. In paragraph 34B(i)(ba), delete “Tier 1 (Investor) Migrant or Tier 1 (Entrepreneur) Migrant,” and substitute “Tier 1 (Exceptional Talent) Migrant, Tier 1 (Entrepreneur) Migrant, Tier 1 (Investor) Migrant or Tier 1 (Graduate Entrepreneur) Migrant,”

8. After paragraph 34J, insert:

“34K. Paragraph 34J does not apply to an applicant who is applying as a Tier 2 Migrant or a Tier 5 Migrant and whose application is supported by a Certificate of Sponsorship from a Premium Sponsor.”

9. In paragraph 46M(iii)(d) after “(c)” insert “, or attending the same event as a sports-person carrying out permitted paid engagements as a visitor”.

10. In paragraph 46S(iii)(d) after “(c)” insert “, or attending the same event as an entertainer carrying out permitted paid engagements as a visitor”.

11. After paragraph 56W, insert:

### **Visitors undertaking permitted paid engagements**

#### **Requirements for leave to enter as a visitor undertaking permitted paid engagements**

56X. The requirements to be met by a person seeking leave to enter the United Kingdom as a visitor undertaking permitted paid engagements are that the applicant:

- i. is genuinely seeking entry as a visitor undertaking a permitted paid engagement for a limited period, not exceeding one month; and
- ii. meets the requirements of paragraphs 41(ii), (v), (vii), (viii), (x) – (xii); and
- iii. intends to do one of the following pre-arranged permitted paid engagements which can be evidenced by a formal invitation, and can show that the engagement relates to his or her area of expertise and/or qualifications, and full time occupation overseas:

- a) examine students and/or participate in or chair selection panels as a visiting academic, who is highly qualified within his or her own field of expertise, invited by a United Kingdom Higher Education Institution or a United Kingdom based research or arts organisation as part of that institution or organisation's quality assurance processes;
  - b) give one or more lectures in his or her field of expertise as a visiting lecturer, invited by a United Kingdom Higher Education Institution or a United Kingdom based research or arts organisation;
  - c) as an overseas designated pilot examiner, assess United Kingdom based pilots to ensure they meet the national aviation regulatory requirements of other countries, by invitation of an approved training organisation based in the United Kingdom that is regulated by the United Kingdom Civil Aviation Authority for that purpose;
  - d) provide advocacy in a particular area of law as a qualified lawyer for the purposes of a court or tribunal hearing, arbitration or other form of alternative dispute resolution for legal proceedings within the United Kingdom, at the invitation of a client in the United Kingdom or foreign based client;
  - e) undertake an activity relating to the arts, entertainment or sporting professions, by invitation of an arts or sports organisation or broadcaster based in the United Kingdom; and
- iv. does not intend to take employment, produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public other than as permitted for by the pre-arranged paid engagement; and
  - v. will maintain and accommodate him or herself adequately out of resources available to the applicant without recourse to public funds or taking employment; or will be maintained and accommodated adequately by relatives or friends.

#### **Leave to enter as a visitor undertaking permitted paid engagements**

56Y. A person seeking leave to enter the United Kingdom as a visitor undertaking permitted paid engagements may be admitted for a single entry and for a period not exceeding 1 month, provided the Immigration Officer is satisfied that each of the requirements of paragraph 56X are met.

#### **Refusal of leave to enter as a visitor undertaking permitted paid engagements**

56Z. Leave to enter as a visitor undertaking permitted paid engagements is to be refused if the Immigration Officer is not satisfied that each of the requirements at paragraph 56X are met.

12. Delete paragraphs 69M to 69R

13. In paragraph 79 (iii), delete "is unmarried," and insert "is not married or in a civil partnership,".

14. In paragraph 79A, after "Both of the applicant's parents must either be lawfully present in the UK, or being granted entry clearance or leave to remain at the same time as the

applicant”, insert “or one parent must be lawfully present in the UK and the other being granted entry clearance or leave to remain at the same time as the applicant,”

15. Delete paragraphs 104 to 109

16. Delete paragraphs 128 to 133 and substitute:

“128. A person coming to the UK to seek or take employment must be otherwise eligible for admission under these Rules or eligible for admission as a seaman under contract to join a ship due to leave British waters.

The requirements for applications for work permit employment set out in paragraphs 128 to 133 of these Rules were deleted on 6 April 2012 by Statement of Changes HC 1888 except insofar as relevant to paragraphs 134 to 135.”

17. Delete paragraph 144(vi)(a) and substitute:

“(a) 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; United States of America; or”

18. In paragraph 144(vi)(b), delete:

“the person is competent in the English language 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, and”

and substitute:

“the applicant has a knowledge of English equivalent to level A1 or above of the Council of Europe's Common European Framework for Language Learning, and”

19. At the end of paragraph 144(vi)(b)(3)(ii), insert “ or”

20. After paragraph 144(vi)(b)(3)(ii), insert

“(4) 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 Master's 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.”

21. In paragraph 158(iv), after “United Kingdom”, insert “in accordance with paragraph 33B of these Rules”

22. Delete Paragraph 159A and substitute:

“159A. The requirements to be met by a person seeking leave to enter the United Kingdom as a domestic worker in a private household are that the applicant:

- (i) is aged 18-65 inclusive; and
- (ii) has been employed as a domestic worker for one year or more immediately prior to the application for entry clearance under the same roof as the employer or in a household that the employer uses for himself on a regular basis and where evidence in the form set out in guidance published by the UK Border Agency is produced to demonstrate the connection between employer and employee; and
- (iii) intends to work for the employer whilst the employer is in the United Kingdom and intends to travel in the company of either;
  - (a) a British or EEA national employer, or that employer's British or EEA national spouse, civil partner or child, where the employer's usual place of residence is outside the UK and where the employer does not intend to remain in the UK beyond six months; or
  - (b) a British or EEA national employer's foreign national spouse, civil partner or child where the employer does not intend to remain in the UK beyond six months; or
  - (c) a foreign national employer or the employer's spouse, civil partner or child where the employer is seeking or has been granted entry clearance or leave to enter under Part 2 of these Rules; and
- (iv) intends to leave the UK at the end of six months in the United Kingdom or at the same time as the employer, whichever is the earlier; and
- (v) has agreed in writing terms and conditions of employment in the UK with the employer, as specified in guidance published by the UK Border Agency, including specifically that the applicant will be paid in accordance with the National Minimum Wage Act 1998 and any Regulations made under it, and provides this with the entry clearance application; and
- (vi) will not take employment other than within the terms of this paragraph to work full time as a domestic worker for the employer in a household that the employer intends to live in; and
- (vii) can maintain and accommodate him or herself adequately without recourse to public funds; and
- (viii) holds a valid entry clearance for entry in this capacity."

23. In paragraph 159B delete " 12 " and substitute: " 6 ".

24. Delete paragraph 159D and its accompanying heading and substitute:

**"Requirements for extension of stay as a domestic worker in a private household**  
 159D. The requirements for an extension of stay as a domestic worker in a private household are that the applicant:

- (i) entered the United Kingdom with a valid entry clearance as a domestic worker in a private household; and

- (ii) was granted less than 6 months leave to enter in this capacity; and
- (iii) has continued to be employed for the duration of leave granted as a domestic worker in the private household of the employer with whom the applicant entered or joined in the UK; and
- (iv) continues to be required for employment for the period of the extension sought as a domestic worker in a private household that the employer lives in; and
- (v) does not intend to take employment except as a domestic worker in the private household of the employer; and
- (vi) meets the requirements of paragraph 159A (iv) and (vii).”

25. Delete paragraph 159E and its accompanying heading and substitute:

**“Extension of stay as a domestic worker in a private household**

159E. An extension of stay as a domestic worker in a private household may be granted for a period of six months less the period already spent in the UK in this capacity.

**Requirements for extension of stay as a domestic worker in a private household for applicants who entered the United Kingdom under the Rules in place before 6 April 2012**

159EA. The requirements for an extension of stay as a domestic worker in a private household for applicants who entered the United Kingdom under Rules in place before 6 April 2012 are that the applicant:

- (i) entered the UK with a valid entry clearance as a domestic worker in a private household under Rules in place before 6 April 2012; and
- (ii) has continued to be employed for the duration of leave granted as a domestic worker in a private household; and
- (iii) continues to be required for employment for the period of the extension sought as a domestic worker in a private household under the same roof as the employer or in the same household that the employer has lived in and where there is evidence that there is a connection between employer and employee; and
- (iv) does not intend to take employment except as a domestic worker in a private household; and
- (v) meets the requirements of paragraph 159A (i) and (vii).

**Extension of stay as a domestic worker in a private household for applicants who entered the United Kingdom under the Rules in place before 6 April 2012**

159EB. An extension of stay as a domestic worker in a private household may be granted for a period not exceeding 12 months at a time provided the Secretary of State is satisfied that each of the requirements of paragraph 159EA are met.”

26. In paragraph 159F, delete “paragraph 159D is met” and insert “either paragraph 159D or, where applicable, paragraph 159EA, is met”.

27. Delete paragraph 159G and insert:

“159G. The requirements for indefinite leave to remain as a domestic worker in a private household are that the applicant:

- (i) entered the United Kingdom with a valid entry clearance as a domestic worker in a private household under the Rules in place before 6 April 2012; and
- (ii) has spent a continuous period of 5 years in the United Kingdom employed in this capacity; and
- (iii) has met the requirements of paragraph 159A (vi) and (vii) throughout the 5 year period; and
- (iv) continues to be required for employment as a domestic worker in a private household as certified by the current employer; and
- (v) has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33B of these Rules, unless they are under 18 or over 65 at the time the application is made ; and
- (vi) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

28. After the heading below Paragraph 193 which ends “(but not paragraphs 135I – 135K)” insert:

“193A. Nothing in paragraphs 194-196F is to be construed as allowing a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as a spouse or civil partner of a person granted entry clearance or leave to enter under Paragraph 159A where that entry clearance or leave to enter was granted under 159A on or after 6 April 2012.”

29. After the heading below Paragraph 196F which ends “(but not paragraph 135I-135K)” insert:

“196G. Nothing in paragraphs 197-199 is to be construed as allowing a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as the child of a person granted entry clearance or leave to enter under Paragraph 159A where that entry clearance or leave to enter was granted under 159A on or after 6 April 2012.”

30. Delete paragraphs 199A to 199C

31. In paragraph 245BD(c), delete “paragraphs 1 to 9” and substitute “paragraphs 1 to 15”

32. In paragraph 245CA(d), delete “paragraphs 1 to 2” and substitute “paragraphs 1 to 15”

33. In paragraph 245DB(c), delete “paragraphs 1 to 3” and substitute “paragraphs 1 to 15”

34. In paragraph 245DD(c), delete “paragraphs 1 to 3” and substitute “paragraphs 1 to 15”
35. In paragraph 245DD(e), after “(iv) as a Tier 1 (Investor) Migrant,” insert:  
“(v) as a Tier 1 (Graduate Entrepreneur) Migrant,”
36. In paragraph 245DD(e), renumber following sub-paragraphs (v) to (xxi) as (vi) to (xxii)
37. In paragraph 245ED(c), renumber “(xiv) as a Tier 4 Migrant” as “(xvi) as a Tier 4 Migrant”
38. In paragraph 245ED(d), before “Student Nurse” insert “Student, ”
39. Delete paragraphs 245F to 245FE and substitute:

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

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

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

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

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

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

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have a minimum of 75 points under paragraphs 66 to 72 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraph 9 of Appendix B.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.

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

- (i) as a Tier 4 Migrant,
- (ii) as a Student,
- (iii) as a Student Nurse,
- (iv) as a Student Re-sitting an Examination,
- (v) as a Student Writing Up a Thesis,
- (vi) as a Postgraduate Doctor or Dentist, or
- (vii) as a Tier 1 (Graduate Entrepreneur) Migrant.

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

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

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

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

must provide the unconditional written consent of the sponsoring government or agency to the application and must provide the specified documents to show that this requirement has been met.

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

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

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules,
- (iii) no employment except:
  - (1) working for the business(es) the applicant has established and
  - (2) other employment of no more than 20 hours per week,

- (iv) no employment as a Doctor or Dentist in Training, and
- (v) no employment as a professional sportsperson (including as a sports coach).”
- 40. In paragraph 245GB(d), delete “Tier 2 (Intra-Company Transfer) Migrant” and substitute “Tier 2 Migrant”
- 41. In paragraph 245GD(g), delete “paragraphs 5 to 10” and substitute “paragraphs 1 to 16”
- 42. Delete paragraph 245GE(c) and substitute:
  - “(c) in the cases set out in paragraph (d) below, leave to remain will be granted for:
    - (i) a period equal to the length of the period of engagement plus 14 days, or
    - (ii) a period of 3 years plus 14 days,whichever is the shorter.”
- 43. In paragraph 245HB(e), delete “paragraphs 5 to 10” and substitute “paragraphs 1 to 18”
- 44. Renumber paragraphs 245HB(g) to (k) as (h) to (l)
- 45. After paragraph 245HB(f), insert:
  - “(g) The applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, regardless of whether he was in the UK during that time.”
- 46. Delete paragraph 245HD(b) and substitute:
  - “(b) the applicant must:
    - (i) have, or have last been granted, entry clearance, leave to enter or leave to remain as:
      - (1) a Tier 1 Migrant,
      - (2) a Tier 2 Migrant,
      - (3) a Highly Skilled Migrant,
      - (4) an Innovator,
      - (5) a Jewish Agency Employee,
      - (6) a Member of the Operational Ground Staff of an Overseas-owned Airline,
      - (7) a Minister of Religion, Missionary or Member of a Religious Order,
      - (8) a Participant in the Fresh Talent: Working in Scotland Scheme,
      - (9) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
      - (10) a Qualifying Work Permit Holder,
      - (11) a Representative of an Overseas Business
      - (12) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
      - (13) a Tier 5 (Temporary Worker) Migrant, or
      - (14) the partner of a Relevant Points Based System Migrant if the relevant Points Based System Migrant is a Tier 4 Migrant,

or

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

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

47. After paragraph 245HD(b) insert:

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

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

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

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

48. Delete paragraphs 245HD(f) and (g) and substitute:

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

(i) The applicant must have completed and passed:

- (1) a UK recognised bachelor or postgraduate degree (not a qualification of equivalent level which is not a degree),
- (2) a UK Postgraduate Certificate in Education or Professional Graduate Diploma of Education (not a qualification of equivalent level),

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

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

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

- (1) his last grant of leave, or

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

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

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

(vi) If the applicant:

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

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

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

(vii) The applicant must provide the specified evidence.”

49. At the end of paragraph 245HD(h), after “met” insert “, and the applicant must be applying for leave to remain as a Tier 2 (Sportsperson) Migrant”

50. In paragraph 245HD(l), delete “paragraphs 5 to 10” and substitute “paragraphs 1 to 16”

51. Renumber paragraphs 245HD(h) to (m) as (e) to (j)

52. After paragraph 245HD(j), insert:

“(k) Unless the applicant's last grant of leave was as a Tier 2 Migrant, the applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, regardless of whether he was in the UK during that time.”

53. Renumber paragraphs 245HD(n) to (q) as (l) to (o)

54. Delete paragraphs 245HE(a) to (e) and substitute:

“(a) If the applicant:

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

(1) a Tier 2 (General) Migrant,

(2) a Tier 2 (Minister of Religion) Migrant,

(3) a Tier 2 (Sportsperson) Migrant,

(4) a Jewish Agency Employee,

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

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

- (7) a Qualifying Work Permit Holder, or
- (8) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,

and

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

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

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

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

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

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

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

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

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

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

whichever is the shorter.

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

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

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

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

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

55. In paragraph 245HE(f), delete “(a), ”

56. At the end of paragraph 245HE(g)(iii)(3), delete “and”

57. Renumber paragraph 245HE(g)(iii)(4) as 245HE(g)(iii)(5)

58. After paragraph 245HE(g)(iii)(3), insert:

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

59. At the end of paragraph 245ZM(a), after “objectives” insert “, including volunteering and job shadowing”

60. After paragraph 245ZO(e), insert:

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

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

(ii) provide evidence of agreed written terms and conditions of employment in the UK with his employer, in accordance with guidance published by the UK Border Agency.”

61. In paragraph 245ZP(c), delete:

“sponsored in the creative and sporting or charity workers sub-category of the Tier 5 (Temporary Worker) Migrant route, leave to enter will be granted for:”

and substitute:

“sponsored in the Creative and Sporting subcategory, the Government Authorised Exchange subcategory for a Work Experience Programme, or the Charity Workers subcategory of the Tier 5 (Temporary Worker) Migrant route, entry clearance or leave to enter will be granted for:”

62. Delete paragraph 245ZP(d) and substitute:

“(d) Where paragraph 245ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored in the Religious Workers subcategory, the Government Authorised Exchange subcategory for a Research Programme or Training Programme or the International Agreement subcategory of the Tier 5 (Temporary Worker) Migrant route, entry clearance will be granted for:

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

(ii) 2 years,

whichever is the shorter.”

63. Delete paragraph 245ZP(e)(iii)(2) and substitute:

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

64. In paragraph 245ZP(e)(iii)(3), after “supplementary employment,” insert “except in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the international agreement sub-category, to work as a private servant in a diplomatic household,”

65. At the end of paragraph 245ZP(e)(iii)(4), delete “.” and substitute “ and Temporary Engagement as a Sports Broadcaster.”

66. After paragraph 245ZP(e)(iii), insert:

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

67. At the end of paragraph 245ZQ(b)(iv), insert “, or”

68. At the end of paragraph 245ZQ(b)(v), delete “.” and substitute “, or”

69. After paragraph 245ZQ(b)(v), insert:

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

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

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

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

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

70. Delete paragraph 245ZQ(e) and substitute:

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

(i) record that the applicant is being sponsored in the same subcategory of the Tier 5 (Temporary Worker) Migrant route as the one in which he was being sponsored to

work for when he was last granted entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant, and

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

71. After paragraph 245ZQ(g), insert:

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

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

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

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.”

72. Delete paragraph 245ZR(b)(ii) and substitute:

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

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

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

73. In paragraph 245ZR(d), after “private servant in a diplomatic household,” insert “where in the case of the latter he entered the UK with a valid entry clearance in that capacity under the Rules in place before 6 April 2012,”

74. In paragraph 245ZR, renumber (e) to (g) as (f) to (h)

75. After paragraph 245ZR(d), insert:

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

- (i) the period of engagement plus 14 days, or
- (ii) 12 months,

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

- (iii) the period of engagement plus 14 days, or
- (iv) a period equal to 5 years less X, where X is the period of time, beginning with the date on which the applicant was first granted entry clearance as a Tier 5 (Temporary Worker) Migrant, that the applicant has already spent in the UK as a Tier 5 (Temporary Worker) Migrant

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

76. Delete paragraph 245ZR(g)(iii)(2) and substitute:

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

77. At the end of paragraph 245ZR(g)(iii)(4), delete “.” and substitute “ and Temporary Engagement as a Sports Broadcaster.”

78. After paragraph 245ZR(g)(iii), insert:

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

79. In paragraph 245ZS(b), after “diplomatic household” insert “ and have last been granted entry clearance in this capacity under the Rules in place before 6 April 2012”

80. In paragraph 245ZV(ca), delete “Where an applicant has been issued with a Confirmation of Acceptance for Studies on or after 21 April 2011,”

81. In paragraph 245ZV(ca), delete the first occurrence of “the” and substitute “The”.

82. Delete paragraph 245ZV(d).

83. In paragraph 245ZV(da), delete “starting on or after 1 January 2012”

84. After paragraph 245ZV(g), insert:

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

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

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

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

(1) Architecture;

(2) Medicine;

(3) Dentistry;

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

a. the Common Professional Examination;

b. the Graduate Diploma in Law and Legal Practice Course; or

c. the Bar Professional Training Course.

(5) Veterinary Medicine & Science; or

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

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

85. In paragraph 245ZW(b), in the section entitled “Notes” insert after (ii):

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

86. In paragraph 245ZW(c) (iii) (4), after “does not exceed” delete “half” and substitute “one third”.

87. In paragraph 245ZW(c) (iii) (4), after “undertaken in the UK except” delete “where it is a United Kingdom statutory requirement that the placement should exceed half the total length of the course” and insert:

“:

(i) where it is a United Kingdom statutory requirement that the placement should exceed one third of the total length of the course; or  
(ii) where the placement does not exceed one half of the total length of the course undertaken in the UK and the student is following a course of degree level study and is either:

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

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

88. In paragraph 245ZW(c)(iii), after (6), insert “

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

89. In paragraph 245ZW(c)(iii), delete “employed as a Doctor or Dentist in Training other than a vacancy on a recognised Foundation Programme” and substitute “employed as a Doctor or Dentist in Training unless the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme”.

90. In paragraph 245ZW(c)(iii), after “permanent full time vacancy other than” insert “ under the conditions of (7) above, or”

91. Delete paragraph 245ZX(e).

92. In paragraph 245ZX(ea), delete “starting on or after 1 January 2012”.

93. After paragraph 245ZX(h), insert:

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

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

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

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

(1) Architecture;

(2) Medicine;

(3) Dentistry;

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

a. the Common Professional Examination:

b. the Graduate Diploma in Law and Legal Practice Course; or

c. the Bar Professional Training Course.

(5) Veterinary Medicine & Science; or

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

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

94. In paragraph 245ZY(b), in the section entitled “Notes” insert after (ii):

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

95. In paragraph 245ZY(c)(iii)(4), after “placement does not exceed” delete “half” and substitute “one third”

96. In paragraph 245ZY(c)(iii)(4), after “undertaken in the UK except” delete “where it is a United Kingdom statutory requirement that the placement should exceed half the total length of the course” and insert:

“:

- (i) where it is a United Kingdom statutory requirement that the placement should exceed one third of the total length of the course; or
- (ii) where the placement does not exceed one half of the total length of the course undertaken in the UK and the student is following a course of degree level study and is either:
  - (a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or
  - (b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the United Kingdom.”

97. In paragraph 245ZY(c)(iii), after (6), insert “

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

98. In paragraph 245ZY(c)(iii), delete “employed as a Doctor or Dentist in Training other than a vacancy on a recognised Foundation Programme” and substitute “employed as a Doctor or Dentist in Training unless the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme”.

99. In paragraph 245ZY(c)(iii), after “permanent full time vacancy other than” insert “ under the conditions of (7) above, or”

100. Delete paragraph 276A1 and substitute:

“276A1. The requirement to be met by a person seeking an extension of stay on the ground of long residence in the United Kingdom is that the applicant meets each of the requirements in paragraph 276B(i)-(ii).”

101. In paragraph 319C(g), after “a Tier 1 (Investor) Migrant”, insert “or a Tier 1 (Exceptional Talent) Migrant”

102. In paragraph 319H(f), after “Both of the applicant's parents must either be lawfully present in the UK, or being granted entry clearance or leave to remain at the same time as the applicant,” insert “; or one parent must be lawfully present in the UK and the other is being granted entry clearance or leave to remain at the same time as the applicant,”
103. In paragraph 319H(g), delete “a Relevant Points Based System (Investor) Migrant” and substitute “a Tier 1 (Investor) Migrant or a Tier 1 (Exceptional Talent) Migrant”
104. In paragraph 319H(h), after “as the child of” insert “, or have been born in the United Kingdom to,”
105. In paragraph 319J(c), after “as the child of” insert “, or have been born in the United Kingdom to,”
106. At the end of paragraph 320(7A), after “in relation to the application” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application”
107. In paragraph 320(7B)(d), after “leave to enter or remain” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application”
108. In paragraph 320(11), after “leave to enter or remain” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application”
109. Delete paragraph 320(15)
110. In paragraph 321(i), after “in relation to the application for entry clearance” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application”
111. In paragraph 321A(2), after “in relation to the application for leave” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application”
112. In paragraph 322(1A), after “in relation to the application” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application”
113. In paragraph 322(2), after “a previous variation of leave” insert “, or in order to obtain documents from the Secretary of State or a third party required in support of the application for leave to enter or a previous variation of leave”
114. Delete paragraph 323A and substitute:
- “323A. In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 2 Migrant, a Tier 4 Migrant or a Tier 5 Migrant:
- (a) is to be curtailed, or its duration varied, if:
- (i) in the case of a Tier 2 Migrant or a Tier 5 Migrant:

- (1) the migrant fails to commence working for the Sponsor, or
    - (2) the migrant ceases to be employed by the Sponsor.
  - (ii) in the case of a Tier 4 Migrant:
    - (1) the migrant fails to commence studying with the Sponsor, or
    - (2) the migrant has been excluded or withdrawn from the course of studies.
- (b) may be curtailed, or its duration varied, if:
- (i) the migrant's Sponsor ceases to have a sponsor licence (for whatever reason); or
  - (ii) the migrant's Sponsor transfers the business for which the migrant works, or at which the migrant is studying, to another person; and
    - (1) that person does not have a sponsor licence; and
    - (2) fails to apply for a sponsor licence within 28 days of the date of the transfer of the business; or
    - (3) applies for a sponsor licence but is refused; or
    - (4) makes a successful application for a sponsor licence, but the Sponsor licence granted is not in a category that would allow the Sponsor to issue a Certificate of Sponsorship to the migrant;
  - (iii) in the case of a Tier 2 Migrant or a Tier 5 Migrant, the migrant continues to be employed by, but ceases working for, the Sponsor for a period of one calendar month or more, unless the period is due solely to:
    - (1) maternity leave
    - (2) paternity leave
    - (3) adoption leave, or
    - (4) sick leave;
  - (iv) paragraph (a) above applies but:
    - (1) the migrant is under the age of 18;
    - (2) the migrant has a dependant child under the age of 18;
    - (3) leave is to be varied such that when the variation takes effect the migrant will have leave to enter or remain and the migrant has less than 60 days extant leave remaining;

(4) the migrant has been granted leave to enter or remain with another Sponsor or under another immigration category; or

(5) the migrant has a pending application for leave to remain, or variation of leave, with the UK Border Agency, or has a pending appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002.”

115. After paragraph 323B, insert:

**“Curtailement of leave in relation to a Tier 1 (Graduate Entrepreneur) Migrant**

323C. In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 1 (Graduate Entrepreneur) Migrant may be curtailed if the Higher Education Institution that endorsed the application which led to the migrant's current grant of leave:

(a) loses its status as an endorsing institution for Tier 1 (Graduate Entrepreneur) Migrants,

(b) loses its status as a Highly Trusted Sponsor under Tier 4 of the Points-Based System (for whatever reason),

(c) ceases to be an A-rated Sponsor under Tier 2 or Tier 5 of the Points-Based System because its Tier 2 or Tier 5 Sponsor licence is downgraded or revoked by the UK Border Agency, or

(d) withdraws its endorsement of the migrant.”

116. In Appendix A, in paragraph 4(b), delete “the period 9 August 2011 to 5 April 2012” and substitute “each of the periods 6 April 2012 to 5 April 2013 and 6 April 2013 to 5 April 2014”

117. In Appendix A, in paragraph 5(b)(i), delete “From 9 August 2011 to 30 November 2011” and substitute “From 6 April to 30 September each year”

118. In Appendix A, in paragraph 5(b)(ii), delete “From 1 December 2011 to 5 April 2012” and substitute “From 1 October to 5 April each year”

119. In Appendix A, in paragraph 5(d)(i), delete “the period 9 August 2011 to 5 April 2012” and substitute “the period 6 April to 5 April each year”

120. In Appendix A, in paragraph 5(e)(i), delete “the period 9 August 2011 to 5 April 2012” and substitute “the period 6 April to 5 April each year”

121. In Appendix A, delete paragraph 37 and substitute:

“37. Available points are shown in Table 5 for an applicant who:

(a) has had entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator in the 12 months immediately before the date of application, or

(b) is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.”

122. In Appendix A, delete paragraph 39(b) and (c) and substitute:

“(b) Notes to accompany Tables 4, 5 and 6 appear below Table 6.”

123. In Appendix A, delete Table 4 and substitute:

**Table 4:**

Investment and business activity	Points
<p>(a) The applicant has access to not less than £200,000, or</p> <p>(b) The applicant has access to not less than £50,000 from:</p> <p style="padding-left: 40px;">(i) one or more registered venture capitalist firms regulated by the Financial Services Authority,</p> <p style="padding-left: 40px;">(ii) one or more UK Entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade &amp; Investment website, or</p> <p style="padding-left: 40px;">(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, or</p> <p>(c) The applicant:</p> <p style="padding-left: 40px;">(i) is applying for leave to remain,</p> <p style="padding-left: 40px;">(ii) has, or was last granted, leave as a Tier 1 (Graduate Entrepreneur) Migrant, and</p> <p style="padding-left: 40px;">(iii) has access to not less than £50,000, or</p> <p>(d) The applicant:</p> <p style="padding-left: 40px;">(i) is applying for leave to remain,</p> <p style="padding-left: 40px;">(ii) has, or was last granted, leave as a Tier 1 (Post-Study Work) Migrant,</p> <p style="padding-left: 40px;">(iii) was, on a date falling within the three months immediately prior to the date of application,</p> <p style="padding-left: 80px;">(1) registered with HM Revenue and Customs as self-employed, or</p> <p style="padding-left: 80px;">(2) registered a new business in which he is a director, or</p>	25

(3) registered as a director of an existing business,  (iv) is engaged in business activity, other than the work necessary to administer his business, in an occupation which appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, and  (v) has access to not less than £50,000.	
The money is held in one or more regulated financial institutions	25
The money is disposable in the UK	25

124. In Appendix A, in the first row of Table 5, delete “from one of the sources listed in Table 4 paragraph (b) above” and substitute “as set out in Table 4 above”

125. In Appendix A, at the end of paragraph 46, after “as a Tier 1 (Entrepreneur) Migrant” add “or a Tier 1 (Post-Study Work) Migrant”

126. In Appendix A, delete paragraph 53 and substitute:

“53. DELETED”

127. In Appendix A, delete paragraph 56 and substitute:

“56. Available points are shown in Table 8 for an applicant who:

(a) has had entry clearance, leave to enter or leave to remain as a Tier 1 (Investor) Migrant or an Investor in the 12 months immediately before the date of application, or

(b) is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Investor) Migrant or an Investor.”

128. In Appendix A, in the header for Table 7, delete “paragraph 60” and substitute “paragraph 55”.

129. In Appendix A, in the header for Table 8, delete “paragraph 61” and substitute “paragraph 56”.

130. In Appendix A, in paragraph 61(a), delete “paragraphs 319(c) and (d)” and substitute “paragraphs 319C(c) and (d)”.

131. In Appendix A, delete paragraphs 66 to 72 and Table 10 and substitute:

**“Attributes for Tier 1 (Graduate Entrepreneur) Migrants**

66. An applicant applying for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant must score 75 points for attributes.

67. Available points are shown in Table 10.

68. Notes to accompany the table appear below the table.

**Table 10**

<b>Criterion</b>	<b>Points</b>
<p>The applicant has been endorsed by a UK Higher Education Institution which:</p> <p>(a) has Highly Trusted Sponsor status under Tier 4 of the Points-Based System,</p> <p>(b) is an A-rated Sponsor under Tier 2 of the Points-Based System if a Tier 2 licence is held,</p> <p>(c) is an A-rated Sponsor under Tier 5 of the Points-Based System if a Tier 5 licence is held, and</p> <p>(d) has established processes and competence for identifying, nurturing and developing entrepreneurs among its undergraduate and postgraduate population.</p>	25
<p>(a) If the applicant's previous grant of leave was not as a Tier 1 (Graduate Entrepreneur) Migrant, the endorsement confirms that, within the 12 months immediately before the date of the endorsement, the institution has awarded the applicant a UK recognised Bachelor degree, Masters degree or PhD (not a qualification of equivalent level which is not a degree),</p> <p>or</p> <p>(b) If the applicant's previous grant of leave was as a Tier 1 (Graduate Entrepreneur) Migrant, the endorsement is from the same institution which provided the endorsement for that previous grant of leave.</p>	25
<p>The endorsement must confirm that the institution has assessed the applicant and considers that:</p> <p>(a) the applicant has a genuine, credible and innovative business idea, and</p> <p>(b) the applicant will spend the majority of his working time on developing business ventures, and</p> <p>(c) if the applicant's previous grant of leave was as a Tier 1 (Graduate Entrepreneur), he has made satisfactory progress in developing his business since that leave was granted and will, on the balance of probabilities, qualify for leave to remain as a Tier 1 (Entrepreneur)</p>	25

Migrant within the next 12 months.	
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**Notes**

**Tier 1 (Graduate Entrepreneur) Limit**

69. (a) The Secretary of State shall be entitled to limit the total number of Tier 1 (Graduate Entrepreneur) endorsements qualifying Higher Education Institutions may make in support of successful applications in a particular period, to be referred to as the Tier 1 (Graduate Entrepreneur) Limit.

(b) The Tier 1 (Graduate Entrepreneur) Limit for each of the periods 6 April 2012 to 5 April 2013 and 6 April 2013 to 5 April 2014 is 1,000 endorsements, which will be allocated to qualifying Higher Education Institutions as follows:

(i) The UK Border Agency will invite all UK Higher Education Institutions which meet the requirements in (a) to (c) in the first row of Table 10 above to take part as endorsing institutions, with responses required by 4 May 2012 for the period 6 April 2012 to 5 April 2013, and by 5 April 2013 for the period 6 April 2013 to 5 April 2014;

(ii) Subject to the limit, the endorsements will be divided equally between all invited institutions who confirm that:

(1) they wish to take part, and

(2) they meet the requirement in (c) in the first row of Table 10 above,

up to a maximum of 10 endorsements per institution;

(iii) Where the resulting allocation for each institution is not an integer, the allocations will be rounded down to the next lowest integer;

(iv) If the result of (ii) or (iii) above is that the total number of allocated endorsements is less than 1,000, the remaining places in the Tier 1 (Graduate Entrepreneur) Limit will not be allocated.

(c) If:

(i) an applicant does not make a valid application within 3 months of the date of his endorsement, or

(ii) an application is refused, and that refusal is not subsequently overturned,

the endorsement used in that application will be cancelled and the relevant institution's unused allocation of endorsements will be increased by one.

(d) The Tier 1 (Graduate Entrepreneur) limit will not apply to applications for leave to remain where the applicant has, or last had, leave to remain as a Tier 1 (Graduate Entrepreneur).

## **Endorsement**

70. Points will only be awarded for an endorsement if:

- (a) the endorsement was issued to the applicant no more than 3 months before the date of application,
- (b) the endorsement has not been withdrawn by the relevant Higher Education Institution at the time the application is considered by the UK Border Agency, and
- (c) the applicant provides the specified evidence.

## **Qualifications**

71. Points will only be awarded for a qualification awarded by the endorsing Higher Education Institution if the institution provides the specified details of the qualification.”

132. In Appendix A, in paragraph 74A(d), after “invalid application” insert “, declared void”

133. In Appendix A, in paragraph 74B(a), delete “graduate level occupations” and substitute “occupations skilled to National Qualifications Framework level 4 or above”

134. In Appendix A, in the third row of Table 11A, after “Job passes Resident Labour Market Test” insert “ or an exemption applies”

135. In Appendix A, delete paragraph 77C(e) and substitute:

“(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, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn),”

136. In Appendix A, in paragraph 77E(a), delete “graduate level occupations” and substitute “occupations skilled to National Qualifications Framework level 4 or above”

137. In Appendix A, delete paragraph 78B and substitute:

### **“Job offer passes Resident Labour Market Test or an exemption applies**

78B. (a) In order for the applicant to be awarded points for a job offer that passes the resident labour market test market test, the Certificate of Sponsorship Checking Service entry must:

- (i) 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
- (ii) contain full details of when and where the job was advertised, and any advertisement reference numbers, including the Jobcentre Plus or JobCentre online vacancy reference number, if the guidance referred to in (a) specifies that the job must have been advertised in Jobcentre Plus or JobCentre online.

(b) In order for the applicant to be awarded points for a job offer where an exemption from the resident labour market test applies:

(i) the appropriate salary, as determined by paragraphs 79 to 79D of this Appendix, must be at least £150,000 per year, or

(ii) the job offer is to continue working as a Doctor or Dentist in training, under the same NHS Training Number which was assigned to the applicant for previous lawful employment as a Doctor or Dentist in Training in the UK.”

138. In Appendix A, delete paragraph 78C(b) to (d) and substitute:

“(b) the applicant must:

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

- (1) a Tier 1 (Post-Study Work) Migrant,
- (2) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
- (3) a Participant in the Fresh Talent: Working in Scotland Scheme,

or

(ii) The applicant must meet the requirements of paragraphs 245HD(b)(ii) and 245HD(d) of these Rules.”

139. In Appendix A, in paragraph 78D, renumber second sub-paragraph (b) and subsequent sub-paragraph (c) as (c) and (d) respectively.

140. In Appendix A, in the third row of Table 11B, after “Job passes Resident Labour Market Test” insert “or an exemption applies as set out in paragraph 78B”

141. In Appendix A, in paragraph 81A, delete “graduate level occupations” and substitute “occupations skilled to National Qualifications Framework level 4 or above”

142. In Appendix A, delete paragraph 81D and substitute:

“81D. In order for the Sponsor's application to be awarded points for a job that passes the resident labour market test or an exemption applies, 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, or that one of the exemptions set out in paragraph 78B of this Appendix applies.”

143. In Appendix A, delete paragraph 91 and substitute:

“91. 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, declared void or withdrawn).”

144. In Appendix A, paragraph 92, delete “must confirm that:” and substitute “must:”

145. In Appendix A, paragraph 92, renumber (b) to (c) as (e) to (f)

146. In Appendix A, paragraph 92, delete sub-paragraph (a) and substitute:

“(a) confirm that the applicant is being sponsored to perform religious duties, which:

- (i) must be work which is within the Sponsor’s organisation, or directed by the Sponsor’s organisation,
- (ii) may include preaching, pastoral work and non pastoral work, and

(b) provide an outline of the duties in (a),

(c) if the Sponsor’s organisation is a religious order, confirm that the applicant is a member of that order,

(d) confirm that the applicant will receive pay and conditions at least equal to those given to settled workers in the same role, that the remuneration complies with or is exempt from National Minimum Wage regulations, and provide details of the remuneration,

(e) confirm that the requirements of the resident labour market test, as defined in the code of practice published by the United Kingdom Border Agency, in respect of the job, have been complied with, unless the applicant is applying for leave to remain and the Sponsor is the same Sponsor as in his last grant of leave,”

147. In Appendix A, delete paragraph 99 and substitute:

“99. 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, declared void or withdrawn).”

148. 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, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn).

111. In addition, a Certificate of Sponsorship reference number will only be considered to be valid:

(a) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Creative and Sporting subcategory to enable the applicant to work as a sportsperson, if:

- (i) The Certificate of Sponsorship Checking Service entry shows 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

(ii) The endorsement referred to in (i) above confirms 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.

(b) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Creative and Sporting subcategory to enable the applicant to work as a creative worker, if the entry confirms that the work could not be carried out by a suitable settled worker.

(c) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Charity Workers subcategory, if the work the applicant is being sponsored to do is:

(i) voluntary fieldwork directly related to the purpose of the charity which is sponsoring him,

(ii) not paid (except reasonable expenses outlined in section 44 of the National Minimum Wage Act), and

(iii) not a permanent position.

(d) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Religious Workers subcategory, if the entry confirms:

(i) that the applicant is being sponsored to perform religious duties, which:

(1) must be work which is within the Sponsor's organisation, or directed by the Sponsor's organisation,

(2) may include preaching, pastoral work and non pastoral work, and

(ii) an outline of the duties in (i),

(iii) if the Sponsor's organisation is a religious order, that the applicant is a member of that order;

(iv) that the applicant will receive pay and conditions at least equal to those given to settled workers in the same role,

(v) that the remuneration complies with or is exempt from National Minimum Wage regulations, and provides details of the remuneration,

(vi) that the applicant will not be displacing or denying an employment opportunity to a suitably qualified member of the resident labour force.

(e) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Government Authorised Exchange subcategory, if the entry confirms that the work, volunteering or job shadowing the applicant is being sponsored to do:

(i) meets the requirements of the individual exchange scheme, as published on the UK Border Agency website,

(ii) does not fill a vacancy in the workforce,

(iii) is skilled to National Qualifications Framework level 3, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, unless the applicant is being sponsored under an individual exchange scheme set up as part of the European Commission's Lifelong Learning Programme,

(iv) conforms with all relevant UK and EU legislation, such as the National Minimum Wage Act and the Working Time Directive.

(f) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the International Agreement subcategory, if the entry confirms that applicant is being sponsored:

(i) for a purpose covered by the UK's commitments in respect of the admission of persons engaged in the supply of a service under the General Agreement on Trade in Services and similar trade agreements, or

(ii) as an employee of an overseas government, or

(iii) as an employee of an international organisation established by international treaty signed by the UK or European Union, or

(iv) as a private servant in a diplomatic household under the provisions of the Vienna Convention on Diplomatic Relations, 1961, and confirms the name of the individual who is employing them."

149. In Appendix A, after paragraph 115C insert:

"115CA. The interim limit implemented by HC908 and effective in relation to Tier 4 between 21 April 2011 and 5 April 2012 shall be known as the Former Interim Limit."

150. In Appendix A, paragraph 115D, delete "21 April 2011 to 5 April 2012" and substitute "6 April 2012 to 31 December 2012".

151. In Appendix A, delete paragraph 115E(iii);"

152. In Appendix A, paragraph 115E rename (iv) to (vii) as (iii) to (vi).

153. In Appendix A, paragraph 115E(v) delete "; or" and substitute "and has yet to receive a first decision on its application for Highly Trusted Sponsor status;".

154. After Appendix A, paragraph 115E(vi) insert:

"or

(vii) a licensed sponsor, who did not have a licence on 5 April 2012, and was granted a licence on or after 6 April 2012 and has yet to receive a first decision on its application for Highly Trusted Sponsor status."

155. In Appendix A, after paragraph 115F, insert:

“115FA. No Confirmations of Acceptance for Studies will be allocated to a Limited Sponsor where:

(i) The Limited Sponsor did not apply for inspection, review or audit by the appropriate specified body by the relevant deadline, as listed below:

Specified body	Deadline
Quality Assurance Agency	9 September 2011
Independent Schools Inspectorate	9 September 2011
Bridge Schools Inspectorate	7 October 2011
School Inspection Service	7 October 2011
Education Scotland	11 November 2011

or

(ii) The Limited Sponsor applied by the deadline specified in (i) above, and failed to meet the required standard to obtain a full institutional audit, inspection or review; or

(iii) The Limited Sponsor applied for Highly Trusted Sponsor status on two occasions and has not been granted Highly Trusted Sponsor status.

115FB A Limited Sponsor that is allocated no Confirmations of Acceptance for Studies further to paragraph 115FA is known as a Legacy Sponsor.”

156. In Appendix A, paragraph 115G, after “Limited Sponsors prior to” delete “21 April 2011” and substitute “6 April 2012”

157. In Appendix A, in paragraph 115G, after “under Tier 4 prior to” delete “21 April 2011” and substitute “6 April 2012”

158. In Appendix A, delete paragraph 115H and substitute;

“115H. The Tier 4 Interim Limit will be calculated as follows:

(i) A Limited Sponsor who has that status as at 6 April 2012 will be allocated:

(a) where the Limited Sponsor was subject to the Former Tier 4 Interim Limit for the entirety of the period 21 April 2011 to 5 April 2012, a number of Confirmations of Acceptance for Studies equal to three quarters of the number of Confirmations of Acceptance for Studies allocated to that Limited Sponsor for the period 21 April 2011 to 5 April 2012;

(b) where the Limited Sponsor had a Tier 4 Sponsor Licence for only part of the period 21 April 2011 to 5 April 2012, and was subject to the Former Tier 4 Interim Limit from the date on which it was granted a sponsor licence, a number of Confirmations of Acceptance for Studies equal to:

(i) the number of Confirmations of Acceptance for Studies allocated to that Limited Sponsor for the period it was licenced between 21 April 2011 to 5 April 2012;

(ii) multiplied by the appropriate factor such that the figure in (i) is equal to the number of Confirmations of Acceptance for Studies that would have been granted to that Limited Sponsor for a period of 9 months;

(c) where the Limited Sponsor had a Tier 4 Sponsor Licence for the entirety of the period 21 April 2011 to 5 April 2012 and was subject to the Former Tier 4 Interim Limit for only part of that period, a number of Confirmations of Acceptance for Studies equal to:

(i) the number of Confirmations of Acceptance for Studies allocated to that Limited Sponsor under the Tier 4 Interim Limit;

(ii) multiplied by the appropriate factor such that the figure in (i) is equal to the number of Confirmations of Acceptance for Studies that would have been granted to that Limited Sponsor for a period of 9 months;

(d) where the calculation in paragraphs (a) to (c) results in 0 or a negative number, the Limited Sponsor will be allocated 0 Confirmations of Acceptance for Studies under the Tier 4 Interim Limit;

(e) where the calculation in paragraphs (a) to (c) does not result in a whole number, the Limited Sponsor will be allocated a number of Confirmations of Acceptance for Studies equal to the nearest whole number (fractions will be rounded up to the nearest whole number).

(ii) A Limited Sponsor who acquires that status after 6 April 2012 will be allocated a number of Confirmations of Acceptance for Studies:

(a) equal to the result of the calculation appropriate for the Limited Sponsor's circumstances as set out in 115H(i) above;

(b) subject where appropriate to a reduction equal to the number of Confirmations of Acceptance for Studies assigned by the Limited Sponsor to Tier 4 Migrants since 6 April 2012 which were used for an application for entry clearance, leave to enter or leave to remain since 6 April 2012; and

(c) divided by the appropriate factor such that the figure resulting from (a) and (b) is proportionate to the period of the Tier 4 Interim Limit remaining. ”

159. In Appendix A, paragraph 116(da), after “Highly Trusted Sponsor Licence”, insert, “and must not be a Legacy Sponsor”.

160. In Appendix A, after paragraph 116(da), insert “

116(db) where the Confirmation of Acceptance for Studies is issued by a Legacy Sponsor or a B-rated sponsor, the Confirmation of Acceptance for Studies will only be valid if it is issued for completion of a course already commenced by way of re-sitting examinations or repeating a module of a course and the Confirmation of Acceptance for Studies must be for

the same course as the course for which the last period of leave was granted to study with that same sponsor,”

161. In Appendix A, in paragraph 116(ea), after “invalid application” insert “, declared void”.

162. In Appendix A, delete paragraph 118(b).

163. In Appendix A, paragraph 118(c), delete “For Confirmation of Acceptance for Studies assigned on or after 21 April 2011, one” and substitute “One”.

164. In Appendix A, paragraph 118(c)(i)(3), after “where the student was granted permission”, insert “to”.

165. In Appendix A, paragraph 118(c)(ii)(3), after “where the student was granted permission”, insert “to”.

166. In Appendix A, paragraph 118(c)(iii)(3), after “where the student was granted permission”, insert “to”.

167. In Appendix A, paragraph 118, rename (c) as (b).

168. In Appendix A, delete paragraph 120.

169. In Appendix A, paragraph 120A, delete “assigned on or after 21 April 2011”

170. In Appendix A, in paragraph 120A, delete sub-paragraph (f), and substitute “  
(f) Where the student is following a course of below degree level study including course –related work placement, the course can only be offered by a Highly Trusted Sponsor. If the course contains a course-related work placement, any period that the applicant will be spending on that placement must not exceed one third of the total length of the course spent in the United Kingdom except :

- (i) where it is a United Kingdom statutory requirement that the placement should exceed one third of the total length of the course; or
- (ii) where the placement does not exceed one half of the total length of the course undertaken in the UK and the student is following a course of degree level study and is either:

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

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

171. In Appendix A, paragraph 120B, delete “assigned on or after 4 July 2011”.

172. In Appendix A, rename paragraphs 120A and 120B as 120 and 120A.

173. In Appendix A, after paragraph 123, insert

“123A. In order to obtain points for a Confirmation of Acceptance for Studies, the applicant must provide a valid Confirmation of Acceptance for Studies reference number.”

174. In Appendix A, in paragraph 124(fa), after “invalid application” insert “, declared void”.

175. In Appendix A, paragraph 125A(a) delete “or”.

176. In Appendix A, paragraph 125A(b) delete “.” and insert

“ , or

(c) where the application for entry clearance or leave to remain is for the applicant to commence a new course of study, not for completion of a course already commenced by way of re-sitting examinations or repeating a module of a course, the Sponsor must hold an A-rated or Highly Trusted Sponsor Licence and must not be a Legacy Sponsor,

(d) where the Confirmation of Acceptance for Studies is issued by a Legacy Sponsor or a B-rated sponsor, the Confirmation of Acceptance for Studies will only be valid if it is issued for completion of a course already commenced by way of re-sitting examinations or repeating a module of a course and the Confirmation of Acceptance for Studies must be for the same course as the course for which the last period of leave was granted to study with that same sponsor,”

177. Delete Appendix B and substitute:

#### “Appendix B - English language

1. An applicant applying as a Tier 1 Migrant or Tier 2 Migrant must have 10 points for English language, unless applying:

- (i) for entry clearance as a Tier 1 (Exceptional Talent) Migrant
- (ii) for entry clearance or leave to remain as a Tier 1 (Investor) Migrant
- (iii) for entry clearance as a Tier 2 (Intra-Company Transfer) Migrant
- (iv) for a grant of leave to remain as a Tier 2 (Intra-Company Transfer) Migrant that would not extend his total stay in this category beyond 3 years.

2. The levels of English language required are shown in Table 1.

3. Available points for English language are shown in Table 2.

4. Notes to accompany the tables are shown below each table.

**Table 1**  
**Level of English language required to score points**

#### **Tier 1**

<b>Row</b>	<b>Category</b>	<b>Applications</b>	<b>Level of English language required</b>
A	Tier 1 (General)	Entry clearance and leave to remain	A knowledge of English equivalent to level C1 or above of the Council of

B	Tier 1 (Entrepreneur)	Entry clearance and leave to remain	Europe's Common European Framework for Language Learning
C	Tier 1 (Graduate Entrepreneur)	Leave to remain	
D	Tier 1 (Exceptional Talent)	Leave to remain	A knowledge of English equivalent to level B1 or above of the Council of Europe's Common European Framework for Language Learning

## Tier 2

Row	Category	Applications	Level of English language required
E	Tier 2 (Minister of Religion)	Entry clearance and leave to remain	A knowledge of English equivalent to level B2 or above of the Council of Europe's Common European Framework for Language Learning
F	Tier 2 (General)	Entry clearance and leave to remain, other than the cases in paragraph 5 below	A knowledge of English equivalent to level B1 or above of the Council of Europe's Common European Framework for Language Learning
G	Tier 2 (Intra-Company Transfer)	Leave to remain, other than the cases in paragraph 1(iv) above.	A knowledge of English equivalent to level A1 or above of the Council of Europe's Common European Framework for Language Learning
H	Tier 2 (General)	Leave to remain cases in paragraph 5 below	
I	Tier 2 (Sportsperson)	Entry clearance and leave to remain	

## Notes

5. An applicant applying for leave to remain as a Tier 2 (General) Migrant must have competence of English to a level A1 or above as set out in Table 1 above if:

- (i) he previously had leave as:
- (1) a Tier 2 (General) Migrant under the rules in place before 6 April 2011,
  - (2) a Qualifying Work Permit Holder,
  - (3) a representative of an overseas newspaper, news agency or Broadcasting organisation,
  - (4) a Member of the Operational Ground Staff of an Overseas-owned Airline, or
  - (5) a Jewish Agency Employee,

and

- (ii) he has not been granted leave to remain in any other routes, or entry clearance or leave to enter in any route, since the grant of leave referred to in (i) above.

**Table 2**  
**Points available for English language**

<b>Factor</b>	<b>Points</b>
National of a majority English speaking country	10
Degree taught in English	10
Passed an English language test	10
Met requirement in a previous grant of leave	10
Transitional arrangements	10

**Notes**

**National of a majority English speaking country**

6. 10 points will only be awarded for being a national of a majority English speaking country if the applicant has the relevant level of English language shown in Table 1 and:

- (i) 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

and

- (ii) provides the specified documents.

## Degree taught in English

7. 10 points will be awarded for a degree taught in English if the applicant has the relevant level of English language shown in Table 1 and:

(i) has obtained an academic qualification (not a professional or vocational qualification) which either:

(1) is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree (not a Master's degree or a PhD) in the UK, and 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:

(2) is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, and is 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

(ii) provides the specified evidence to show he has the qualification.

8. If the applicant is required to have competence of English to level A1 as set out in Table 1 above (rows G to I) , 10 points will be awarded for a degree taught in English if the applicant has the relevant level of English language shown in Table 1 and:

(i) 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 or a PhD in the UK, and

(ii) provides the specified evidence to show that:

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

9. An applicant for leave to remain as a Tier 1 (Graduate Entrepreneur) can only score the required 10 points for English language by having a qualification taught in English and scoring 75 points under Table 10, Appendix A.

#### **Passed an English language test**

10. 10 points will only be awarded for passing an English language test if the applicant has the relevant level of English language shown in Table 1 and provides an original English language test document 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 relevant level shown in Table 1 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.

#### **Met requirement in a previous grant of leave**

11. Subject to paragraph 14 below, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant:

- (i) has ever been granted leave as a Tier 1 (General) Migrant or a Tier 1 (Entrepreneur) Migrant or Business person, or
- (ii) has ever been granted leave as a Highly Skilled Migrant under the Rules in place on or after 5 December 2006.

12. Subject to paragraph 14 below, where the application falls under rows D to I of Table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted:

- (i) leave as a Minister of Religion (not as a Tier 2 (Minister of Religion) Migrant) under the Rules in place on or after 19 April 2007, 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 for being a national of a majority English speaking country, a degree taught in English, or passing an English language test.

13. Subject to paragraph 14 below, where the application falls under row D or rows F to I of table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave 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 having a knowledge of English equivalent to level B1 of the Council of Europe's Common European Framework for Language Learning or above, or

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

14. Where the application falls under rows G to I of table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted:

(i) leave as a Minister of Religion (not as a Tier 2 (Minister of Religion) Migrant) under the Rules in place on or after 23 August 2004,

(ii) leave as a Tier 2 Migrant, provided that when he was granted that leave he obtained points for English language for being a national of a majority English speaking country, a degree taught in English, or passing an English language test.

15. No points will be awarded for meeting the requirement in a previous grant of leave if false representations were made or false documents or information were submitted (whether or not to the applicant's knowledge) in relation to the requirement in the application for that previous grant of leave.

### **Transitional arrangements**

16. 10 points will be awarded for English language if the applicant:

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

(b) has previously been 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

and

(c) has not been granted leave in any categories other than Tier 2 (General), Tier 2 (Intra-Company Transfer) and those listed in (b) above under the Rules in place since 28 November 2008.

17. 10 points will be awarded for English language if the applicant:

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

(b) has previously been granted entry clearance, leave to enter and/or leave to remain as a Minister of Religion, Missionary or Member of a Religious Order, and

(c) has not been granted leave in any categories other than Tier 2 (Minister of Religion) and those listed in (b) above under the Rules in place since 28 November 2008.

18. 10 points will be awarded for English language if the applicant:

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

(b) has previously been granted entry clearance, leave to enter and/or leave to remain as a Qualifying Work Permit Holder, and

(c) has not been granted leave in any categories other than Tier 2 (Sportsperson) and as a Qualifying Work Permit Holder under the Rules in place since 28 November 2008.”

178. In Appendix C, after paragraph 1A(i), insert:

“(j) No points will be awarded where the specified documents show that the funds are held in a financial institution with which the UK Border Agency is unable to make satisfactory verification checks. A list of financial institutions which do not satisfactorily verify financial statements is published on the UK Border Agency website.”

179. In Appendix C, in the table in paragraph 2(a), delete “£2,800” and substitute “£3,100”

180. In Appendix C, in the table in paragraph 2(b), delete “£800” and substitute “£900”

181. In Appendix C, in the table in paragraph 5(a), delete “£800” and substitute “£900”

182. In Appendix C, delete paragraph 5(c).

183. In Appendix C, in paragraph 5(d), delete “£800” and substitute “£900”

184. In Appendix C, in paragraph 5, renumber (d) as (c).

185. In Appendix C, in the table in paragraph 7, delete “£1,600” and substitute “£1,800”

186. In Appendix C, in the table in paragraph 9, delete “£800” and substitute “£900”

187. In Appendix C, in paragraph 11, after “in the manner specified in paragraph 13”, insert “and 13A”

188. In Appendix C, in the table in paragraph 11, delete both instances of “£800” and substitute “£1,000” in both cases

189. In Appendix C, in the table in paragraph 11, delete both instances of “£600” and substitute “£800” in both cases

190. In Appendix C, delete paragraph 13A and substitute:

“13A. In assessing whether the requirements of Appendix C, paragraph 11 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs the

maximum amount that will be offset against the total maintenance requirement to be met is £1,000 irrespective of the actual amount of the deposit paid.”

191. In Appendix C, paragraph 16 after “in the manner specified in paragraph 21”, insert “and 21A”.
192. In Appendix C, paragraph 16(b) under criterion “Where the child is (or will be) studying at a non-residential independent school and is in a private foster care arrangement (see notes below) or staying with and cared for by a close relative” delete “£500” and substitute “£550”.
193. In Appendix C, paragraph 16(b) under criterion “Where the child is (or will be) studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent” delete “£1333 per month of stay” and substitute “£1500 per month of stay”.
194. In Appendix C, paragraph 16(b) under criterion “Where the child is (or will be) studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent” delete “£1333 per month, plus £533” and substitute “£1500 per month, plus £600”.
195. In Appendix C, paragraph 16(b) under criterion “Where the child is aged 16 or 17 years old and is living independently and studying in inner London” in sub-paragraph i) delete “£800” and substitute “£900”.
196. In Appendix C, paragraph 16(b) under criterion “Where the child is aged 16 or 17 years old and is living independently and studying in inner London” in sub-paragraph ii) delete “£800” and substitute “£900”.
197. In Appendix C, paragraph 16(b) under criterion “Where the child is aged 16 or 17 years old, is living independently and studying in outer London or elsewhere in the United Kingdom” in sub-paragraph iii) delete “£600” and substitute “£700”.
198. In Appendix C, paragraph 16(b) under criterion where the child is aged 16 or 17 years old, is living independently and studying in outer London or elsewhere in the United Kingdom” in sub-paragraph iv), delete “£600” and substitute “£700”.
199. In Appendix C, delete paragraph 21A, and substitute:

“21A. In assessing whether the requirements of Appendix C, paragraph 11 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs the maximum amount that will be offset against the total maintenance requirement to be met is £1,000 irrespective of the actual amount of the deposit paid.”
200. In Appendix E, in paragraph (a), delete “£1,600” and substitute “£1,800”
201. In Appendix E, in paragraph (b)(ii), delete “£533” and substitute “£600”
202. In Appendix E, in paragraph (ba)(i)(1), delete “£533” and substitute “£600”
203. In Appendix E, in paragraph (ba)(i)(1), delete “£4,797” and substitute “£5,400”

204. In Appendix E, in paragraph (ba)(i)(2), delete “£400” and substitute “£450”
205. In Appendix E, in paragraph (ba)(i)(2), delete “£3,600” and substitute “£4,050”
206. In Appendix E, in paragraph (g), after “referred to in (f) above” insert “on the date of the application and”
207. In Appendix E, in paragraph (g)(i), delete “ending no earlier than one calendar month before the date of application,”
208. In Appendix E, in paragraph (g)(ii), delete “ending no earlier than one calendar month before the date of application,”
209. In Appendix E, in paragraph (i)(3), delete “the first month of the relevant Points Based System Migrant's employment” and substitute “the first month of the dependant’s leave, if granted”
210. In Appendix E, in paragraph (i)(3), delete “£533” and substitute “£600”
211. In Appendix E, in paragraph (ia), delete “, and the Relevant Points Based System Migrant to whom the application is connected has, or is being granted, leave as a Tier 4 (General) Student”
212. In Appendix E, after paragraph (l), insert:
- “(m) The end date of the 90-day and 28-day periods referred to in (g) above will be taken as the date of the closing balance on the most recent of the specified documents, and must be no earlier than 31 days before the date of application.”
213. At the end of Appendix F insert:

**“Immigration Rules as at 5 April 2012 relating to Overseas qualified nurses or midwives, Seasonal agricultural workers, Work permit employment, Multiple Entry work permit Employment, and Tier 1 (Post Study Work) Migrants**

**Overseas qualified nurse or midwife**

**Requirements for leave to enter as an overseas qualified nurse or midwife**

69M. Deleted on 27 November 2008 by paragraph 39 of Statement of Changes HC 1113 except insofar as relevant to paragraph 69P.

**Leave to enter the United Kingdom as an overseas qualified nurse or midwife**

69N. DELETED.

**Refusal of leave to enter as an overseas qualified nurse or midwife**

69O. DELETED.

**Requirements for an extension of stay as an overseas qualified nurse or midwife**

69P. The requirements to be met by a person seeking an extension of stay as an overseas qualified nurse or midwife are that the applicant:

(i)-(iii) Deleted by HC 1113

(iv) has leave to enter or remain as an overseas qualified nurse or midwife in accordance with paragraphs 69M - 69R of these Rules; and

(v) meets the requirements set out in paragraph 69M (i) - (vi); and

(vi) can provide satisfactory evidence of regular attendance during any previous period of supervised practice or midwife adaptation course; and

(vii) if he has previously been granted leave:

(a) as an overseas qualified nurse or midwife under paragraphs 69M - 69R of these Rules, or

(b) to undertake an adaptation course as a student nurse under paragraphs 63 - 69 of these Rules; and is not seeking an extension of stay in this category which, when amalgamated with those previous periods of leave, would total more than 18 months; and

(viii) if his previous studies, supervised practice placement or midwife adaptation programme placement were sponsored by a government or international scholarship agency, he has the written consent of his official sponsor to remain in the United Kingdom as an overseas qualified nurse or midwife.

### **Extension of stay as an overseas qualified nurse or midwife**

69Q. An extension of stay as an overseas qualified nurse or midwife may be granted for a period not exceeding 18 months, provided that the Secretary of State is satisfied that each of the requirements of paragraph 69P is met.

### **Refusal of extension of stay as an overseas qualified nurse or midwife**

69R. An extension of stay as an overseas qualified nurse or midwife is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 69P is met.

### **Seasonal agricultural workers**

#### **Requirements for leave to enter as a seasonal agricultural worker**

104. The requirements to be met by a person seeking leave to enter the United Kingdom as a seasonal agricultural worker are that he:

(i) is a student in full time education aged 18 or over; and

(ii) holds an immigration employment document in the form of a valid Home Office work card issued by the operator of a scheme approved by the Secretary of State; and

(iii) intends to leave the United Kingdom at the end of his period of leave as a seasonal worker; and

(iv) does not intend to take employment except as permitted by his work card and within the terms of this paragraph; and

(v) is not seeking leave to enter on a date less than 3 months from the date on which an earlier period of leave to enter or remain granted to him in this capacity expired; and

(vi) is able to maintain and accommodate himself without recourse to public funds.

### **Leave to enter as a seasonal agricultural worker**

105. A person seeking leave to enter the United Kingdom as a seasonal agricultural worker may be admitted with a condition restricting his freedom to take employment for a period not exceeding 6 months providing the Immigration Officer is satisfied that each of the requirements of paragraph 104 is met.

### **Refusal of leave to enter as a seasonal agricultural worker**

106. Leave to enter the United Kingdom as a seasonal agricultural worker is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 104 is met.

### **Requirements for extension of stay as a seasonal agricultural worker**

107. The requirements for an extension of stay as a seasonal agricultural worker are that the applicant:

(i) entered the United Kingdom as a seasonal agricultural worker under paragraph 105; and

(ii) meets the requirements of paragraph 104 (iii)-(vi); and

(iii) would not, as a result of an extension of stay sought, remain in the United Kingdom as a seasonal agricultural worker beyond 6 months from the date on which he was given leave to enter the United Kingdom on this occasion in this capacity.

### **Extension of stay as a seasonal agricultural worker**

108. An extension of stay as a seasonal agricultural worker may be granted with a condition restricting his freedom to take employment for a period which does not extend beyond 6 months from the date on which he was given leave to enter the United Kingdom on this occasion in this capacity, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 107.

### **Refusal of extension of stay as a seasonal worker**

109. An extension of stay as a seasonal worker is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 107 is met.

## **Work permit employment**

### **Requirements for leave to enter the United Kingdom for work permit employment**

128. The requirements to be met by a person coming to the United Kingdom to seek or take employment (unless he is otherwise eligible for admission for employment under these Rules or is eligible for admission as a seaman under contract to join a ship due to leave British waters) are that he:

- (i) holds a valid Home Office work permit; and
- (ii) is not of an age which puts him outside the limits for employment; and
- (iii) is capable of undertaking the employment specified in the work permit; and
- (iv) does not intend to take employment except as specified in his work permit; and
- (v) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vi) in the case of a person in possession of a work permit which is valid for a period of 12 months or less, intends to leave the United Kingdom at the end of his approved employment; and
- (vii) holds a valid United Kingdom entry clearance for entry in this capacity except where he holds a work permit valid for 6 months or less or he is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British subject.

### **Leave to enter for work permit employment**

129. A person seeking leave to enter the United Kingdom for the purpose of work permit employment may be admitted for a period not exceeding the period of employment approved by the Home Office (as specified in his work permit), subject to a condition restricting him to that approved employment, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity or, where entry clearance is not required, provided the Immigration Officer is satisfied that each of the requirements of paragraph 128(i)-(vi) is met.

### **Refusal of leave to enter for employment**

130. Leave to enter for the purpose of work permit employment is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, where entry clearance is not required, if the Immigration Officer is not satisfied that each of the requirements of paragraph 128(i)-(vi) is met.

### **Requirements for an extension of stay for work permit employment**

131. The requirements for an extension of stay to seek or take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) are that the applicant:

- (i) entered the United Kingdom with a valid work permit under paragraph 129; and
- (ii) has written approval from the Home Office for the continuation of his employment; and
- (iii) meets the requirements of paragraph 128 (ii)-(v).

131A. The requirements for an extension of stay to take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) for a student are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a student in accordance with paragraphs 57 to 62 of these Rules; and
- (ii) has obtained a degree qualification on a recognised degree course at either a United Kingdom publicly funded further or higher education institution or a bona fide United Kingdom private education institution which maintains satisfactory records of enrolment and attendance; and
- (iii) holds a valid Home Office immigration employment document for employment; and
- (iv) has the written consent of his official sponsor to such employment if he is a member of a government or international scholarship agency sponsorship and that sponsorship is either ongoing or has recently come to an end at the time of the requested extension; and
- (v) meets each of the requirements of paragraph 128 (ii) to (vi).

131B. The requirements for an extension of stay to take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) for a student nurse overseas qualified nurse or midwife, postgraduate doctor or postgraduate dentist are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a student nurse in accordance with paragraphs 63 to 69 of these Rules; or
- (ia) entered the United Kingdom or was given leave to remain as an overseas qualified nurse or midwife in accordance with paragraphs 69M to 69R of these Rules; and
- (ii) entered the United Kingdom or was given leave to remain as a postgraduate doctor or a postgraduate dentist in accordance with paragraphs 70 to 75 of these Rules; and
- (iii) holds a valid Home Office immigration employment document for employment as a nurse, doctor or dentist; and
- (iv) has the written consent of his official sponsor to such employment if he is a member of a government or international scholarship agency sponsorship and that sponsorship is either ongoing or has recently come to an end at the time of the requested extension; and

(v) meets each of the requirements of paragraph 128 (ii) to (vi).

131C The requirements for an extension of stay to take employment for a Science and Engineering Graduate Scheme or International Graduates Scheme participant are that the applicant:

(i) entered the United Kingdom or was given leave to remain as a Science and Engineering Graduate Scheme or International Graduates Scheme participant in accordance with paragraphs 135O to 135T of these Rules; and

(ii) holds a valid Home Office immigration employment document for employment; and

(iii) meets each of the requirements of paragraph 128 (ii) to (vi).

131D. The requirements for an extension of stay to take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) for a working holidaymaker are that the applicant:

(i) entered the United Kingdom as a working holidaymaker in accordance with paragraphs 95 to 96 of these Rules; and

(ii) he has spent more than 12 months in total in the UK in this capacity; and

(iii) holds a valid Home Office immigration employment document for employment in an occupation listed on the Work Permits (UK) shortage occupations list; and

(iv) meets each of the requirements of paragraph 128 (ii) to (vi).

131E The requirements for an extension of stay to take employment for a highly skilled migrant are that the applicant:

(i) entered the United Kingdom or was given leave to remain as a highly skilled migrant in accordance with paragraphs 135A to 135E of these Rules; and

(ii) holds a valid work permit; and

(iii) meets each of the requirements of paragraph 128(ii) to (vi).

131F The requirements for an extension of stay to take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) for an Innovator are that the applicant:

(i) entered the United Kingdom or was given leave to remain as an Innovator in accordance with paragraphs 210A to 210E of these Rules; and

(ii) holds a valid Home Office immigration employment document for employment; and

(iii) meets each of the requirements of paragraph 128(ii) to (vi).

131G. The requirements for an extension of stay to take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) for an individual who has leave to enter or leave to remain in the United Kingdom to take the PLAB Test or to undertake a clinical attachment or dental observer post are that the applicant:

- (i) entered the United Kingdom or was given leave to remain for the purposes of taking the PLAB Test in accordance with paragraphs 75A to 75F of these Rules; or
- (ii) entered the United Kingdom or was given leave to remain to undertake a clinical attachment or dental observer post in accordance with paragraphs 75G to 75M of these Rules; and
- (iii) holds a valid Home Office immigration employment document for employment as a doctor or dentist; and
- (iv) meets each of the requirements of paragraph 128 (ii) to (vi).

131H. The requirements for an extension of stay to take employment (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules) in the case of a person who has leave to enter or remain as a Fresh Talent: Working in Scotland scheme participant are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a Fresh Talent: Working in Scotland scheme participant in accordance with paragraphs 143A to 143F of these Rules; and
- (ii) holds a valid Home Office immigration employment document for employment in Scotland; and
- (iii) has the written consent of his official sponsor to such employment if the studies which led to him being granted leave under the Fresh Talent: Working in Scotland scheme in accordance with paragraphs 143A to 143F of these Rules, or any studies he has subsequently undertaken, were sponsored by a government or international scholarship agency; and
- (iv) meets each of the requirements of paragraph 128 (ii) to (vi).

131I. The requirements for an extension of stay to take employment for a Tier 1 Migrant are that the applicant:

- (i) entered the UK or was given leave to remain as a Tier 1 Migrant, and
- (ii) holds a valid work permit; and
- (iii) meets each of the requirements of paragraph 128(ii) to (vi).

### **Extension of stay for work permit employment**

132. An extension of stay for work permit employment may be granted for a period not exceeding the period of approved employment recommended by the Home Office provided the Secretary of State is satisfied that each of the requirements of paragraphs 131,

131A, 131B, 131C, 131D, 131E, 131F, 131G, 131H or 131I is met. An extension of stay is to be subject to a condition restricting the applicant to employment approved by the Home Office.

133. An extension of stay for employment is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraphs 131, 131A, 131B, 131C, 131D, 131E, 131F, 131G, 131H or 131I is met (unless the applicant is otherwise eligible for an extension of stay for employment under these Rules).

### **Multiple Entry work permit employment**

#### **Requirements for leave to enter for Multiple Entry work permit employment**

199A. The requirements to be met by a person coming to the United Kingdom to seek or take Multiple Entry work permit employment are that he:

- (i) holds a valid work permit;
- (ii) is not of an age which puts him outside the limits for employment;
- (iii) is capable of undertaking the employment specified in the work permit;
- (iv) does not intend to take employment except as specified in his work permit;
- (v) is able to maintain and accommodate himself adequately without recourse to public funds; and
- (vi) intends to leave the United Kingdom at the end of the employment covered by the Multiple Entry work permit and holds a valid United Kingdom Entry clearance for entry into this capacity excepts where he holds a work permit valid for 6 months or less or he is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British subject.

#### **Leave to enter for Multiple Entry work permit employment**

199B. A person seeking leave to enter the United Kingdom for the purpose of Multiple Entry work permit employment may be admitted for a period not exceeding 2 years provided that the Immigration Officer is satisfied that each of the requirements of paragraph 199A are met.

#### **Refusal of leave to enter for Multiple Entry work permit employment**

199C. Leave to enter for the purpose of Multiple Entry work permit employment is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 199A is met.

## **Tier 1 (Post-Study Work) Migrants**

### **245F. Purpose**

The purpose of this route is to encourage international graduates who have studied in the UK to stay on and do skilled or highly skilled work.

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

All migrants arriving in the UK and wishing to enter as a Tier 1 (Post-Study Work) 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.

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

To qualify for entry clearance as a Tier 1 (Post-Study Work) 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 not previously have been granted entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant 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 a minimum of 75 points under paragraphs 66 to 72 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 3 of Appendix B.
- (e) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (f) If:
  - (i) the studies that led to the qualification for which the applicant obtains points under paragraphs 66 to 72 of Appendix A were sponsored by a Government or international scholarship agency, and
  - (ii) those studies came to an end 12 months ago or less the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

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

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

- (a) no recourse to public funds,
- (b) registration with the police, if this is required by paragraph 326 of these Rules, and
- (c) no Employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.

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

To qualify for leave to remain as a Tier 1 (Post-Study Work) Migrant, an applicant must meet the requirements listed below. Subject to paragraph 245FE(a)(i), 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 not previously have been granted entry clearance or leave to remain as a Tier 1 (Post-Study Work) migrant.
- (c) The applicant must have a minimum of 75 points under paragraphs 66 to 72 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 3 of Appendix B.
- (e) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (f) The applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:
  - (i) as a Participant in the Fresh Talent: Working in Scotland Scheme,
  - (ii) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
  - (iii) as a Student, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above,
  - (iv) as a Student Nurse, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above,

(v) as a Student Re-Sitting an Examination, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above,

(vi) as a Student Writing Up a Thesis, provided the applicant has not previously been granted leave as a Tier 1 Migrant or in any of the categories referred to in paragraphs (i) and (ii) above,

(vii) as a Tier 4 Migrant, provided the applicant has not previously been granted leave as a Tier 1 (Post-Study Work) Migrant or in any of the categories referred to in paragraphs (i) and (ii) above, or

(viii) as a Postgraduate Doctor or Dentist, provided the applicant has not previously been granted leave as a Tier 1 (Post-Study Work) Migrant or in any of the categories referred to in paragraphs (i) and (ii) above.

(g) An applicant who has, or was last granted leave as a Participant in the Fresh Talent: Working in Scotland Scheme must be a British National (Overseas), British overseas territories citizen, British Overseas citizen, British protected person or a British subject as defined in the British Nationality Act 1981.

(h) If:

(i) the studies that led to the qualification for which the applicant obtains points under paragraphs 66 to 72 of Appendix A were sponsored by a Government or international scholarship agency, and

(ii) those studies came to an end 12 months ago or less the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

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

(a) Leave to remain will be granted:

(i) for a period of the difference between 2 years and the period of the last grant of entry clearance, leave to enter or remain, to an applicant who has or was last granted leave as a Participant in the Fresh Talent: Working in Scotland Scheme, as a Participant in the International Graduates Scheme (or its predecessor the Science and Engineering Graduates Scheme). If this calculation results in no grant of leave then leave to remain is to be refused;

(ii) for a period of 2 years, to any other applicant.

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

(i) no access to public funds,

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

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

### **Appendix A – Attributes for Tier 1 (Post-Study Work) Migrants**

66. An applicant applying for entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant must score 75 points for attributes.

67. Available points are shown in Table 10.

68. Notes to accompany the table appear below the table.

**Table 10**

<b>Qualifications</b>	<b>Points</b>
<p>The applicant has been awarded:</p> <p>(a) a UK recognised bachelor or postgraduate degree, or</p> <p>(b) a UK postgraduate certificate in education or Professional Graduate Diploma of Education, or</p> <p>(c) a Higher National Diploma ('HND') from a Scottish institution.</p>	20
<p>(a) The applicant studied for his award at a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, or</p> <p>(b) If the applicant is claiming points for having been awarded a Higher National Diploma from a Scottish Institution, he studied for that diploma at a Scottish publicly funded institution of further or higher education, or a Scottish bona fide private education institution which maintains satisfactory records of enrolment and attendance.</p> <p>The Scottish institution must:</p> <p>(i) be on the list of Education and Training Providers list on the Department of Business, Innovation and Skills website, or</p>	20

(ii) hold a Sponsor licence under Tier 4 of the Points Based System.	
The applicant's periods of UK study and/or research towards his eligible award were undertaken whilst he had entry clearance, leave to enter or leave to remain in the UK that was not subject to a restriction preventing him from undertaking a course of study and/or research.	20
The applicant made the application for entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant within 12 months of obtaining the relevant qualification or within 12 months of completing a United Kingdom Foundation Programme Office affiliated Foundation Programme as a postgraduate doctor or dentist.	15
The applicant is applying for leave to remain and has, or was last granted, leave 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.	75

**Qualification: notes**

69. Specified documents must be provided as evidence of the qualification and, where relevant, completion of the United Kingdom Foundation Programme Office affiliated Foundation Programme as a postgraduate doctor or dentist.

70. A qualification will have been deemed to have been 'obtained' on the date on which the applicant was first notified in writing, by the awarding institution, that the qualification had been awarded.

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.

72. To qualify as an HND from a Scottish institution, a qualification must be at level 8 on the Scottish Credit and Qualifications Framework.”

214. After Appendix H, insert new Appendix I:

**“Appendix I** – Pay requirements which the Secretary of State intends to apply to applications for indefinite leave to remain from Tier 2 (General) and Tier 2 (Sportspersons) migrants made on or after 6 April 2016. The Immigration Rules are subject to change and applicants will need to meet the Rules in force at the date of application. However, it is the Secretary of State’s intention that these rules, as they relate to pay, will replace paragraph 245HF from that date.

## 245HF.

### **Requirements for indefinite leave to remain as a Tier 2 (General) or Tier 2 (Sportsperson) Migrant**

To qualify for indefinite leave to remain as a Tier 2 (General) 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, in any combination of the following categories of which the most recent period must have been spent with leave as a Tier 2 Migrant either:
  - (i) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant,
  - (ii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant.
- (d) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing:
  - (i) that he still requires the applicant for the employment in question, and
  - (ii) subject to sub-paragraph (iii), in the case of a Tier 2 (General) or Tier 2 (Sportsperson) Migrant applying for settlement, that they are being paid for the employment in question either:
    - (1) 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, or
    - (2) a gross annual salary of £35,000 per annum,whichever is higher, where the appropriate rate or salary includes basic pay and allowances as set out in paragraph 79E or paragraph 100A of Appendix A.
  - (iii) where a Tier 2 (General) Migrant applying for settlement is recorded (at the time of application for settlement) by the Certificate of Sponsorship Checking Service as being sponsored to do a job that either:

(1) appears on the list of shortage occupations published by the UK Border Agency, or has appeared on that list during any time the applicant was being sponsored to do that job and during the continuous period of 5 years referred to in paragraph (c) above, or

(2) appears on the list of PhD-level occupation codes as stated in the Sponsor Guidance published by the UK Border Agency, or has appeared on that list during any time the applicant was being sponsored to do that job and during the continuous period of 5 years referred to in paragraph (c) above,

sub paragraph (d)(ii) does not apply and the Sponsor that issued the Certificate of Sponsorship for the employment in question must certify that the Tier 2 (General) migrant applying for Indefinite Leave to Remain is being 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, where the appropriate rate or salary includes basic pay and allowances as set out in paragraph 79E of Appendix A.

(e) The applicant must provide the specified documents as set out in the application form for settlement and accompanying guidance to evidence the Sponsor's certification in subsection (d) (ii) - (iii).

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

### **245HG. Requirements for indefinite leave to remain as a Tier 2 (Minister of Religion) Migrant**

To qualify for indefinite leave to remain as a Tier 2 (Minister of Religion) 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, in any combination of the following categories of which the most recent period must have been spent with leave as a Tier 2 Migrant (Minister of Religion):

- (i) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant, or
- (ii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant,

(d) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing that he still requires the applicant for the employment in question, and

(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.

**2. In Appendix A – Attributes, after 79D insert:**

**79E. Appropriate salary for indefinite leave to remain**

An applicant applying for Indefinite Leave to Remain under paragraph 245HF is expected to demonstrate that he is being paid either 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, or a gross annual salary of £35,000 per annum, whichever is higher. The appropriate rate or £35,000 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) Salary will be based on basic pay (excluding overtime);
- (ii) Allowances, such as London weighting, will be included in the salary 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 a bonus or incentive pay, travel expenses and subsistence (including travel to and from the applicant's home country), will not be included.

**3. In Appendix A – Attributes, after paragraph 100 insert:**

**Appropriate salary for indefinite leave to remain**

100A.

An applicant applying for Indefinite Leave to Remain under 245HF is expected to demonstrate that he is being paid either 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, or a gross annual salary of £35,000 per annum, whichever is higher. The appropriate rate or £35,000 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) Salary will be based on basic pay (excluding overtime);
- (ii) Allowances, such as London weighting, will be included in the salary 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 a bonus or incentive pay, travel expenses and subsistence (including travel to and from the applicant's home country), will not be included.”



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**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 15 MARCH 2012 (HC 1888)**

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 remove the unintended addition of a no convictions requirement for applicants for further leave to remain on the basis of long residence
- To introduce new provisions for Visitors carrying out permitted paid engagements;
- To implement annual limits for 2012/13 and 2013/14 for Tier 1 of the Points-Based System;
- To close the Tier 1 (Post-Study Work) category and introduce more selective post-study work provisions in a new Tier 1 (Graduate Entrepreneur) category and Tiers 2 and 5;
- To make changes to the settlement (Indefinite Leave to Remain) rules for Tier 2 migrants;
- To make provision for the application process for applicants in Tier 2 and Tier 5 further to the introduction of Premium Sponsorship;
- To provide for mandatory, rather than discretionary, curtailment of leave to enter or remain under Tiers 2, 4, or 5 of the Points-Based System where the migrant has failed to commence working or studying with his Sponsor or where the migrant, having commenced working or studying with his Sponsor, ceases to be employed, or is excluded or withdrawn from his course of study and to set out the exceptions to mandatory curtailment;
- To implement various other amendments to the Points-Based System;
- To make changes to the categories for overseas domestic workers;
- To delete and archive redundant provisions relating to Work permit employment, Multiple Entry work permit employment, the Seasonal Agricultural Workers Scheme (SAWS) and EC Association Agreements provisions.

**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 implements the next round of significant changes to the Points-Based System to implement the Government's strategy for reducing non-EEA economic migration, including annual limits for Tier 1 for 2012/13 and 2013/14.

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/](http://www.ukba.homeoffice.gov.uk/) and [www.ukba.homeoffice.gov.uk/sitecontent/documents/](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/) on the same date as these rules are laid before Parliament, namely 15 March 2012.

#### **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](http://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 paragraph 96 are to remove the unintended addition of a no convictions requirement for applicants for further leave to remain on the basis of long residence. Paragraph 276A1 of the Immigration Rules currently states that a person should meet the requirements of paragraph 276B, except the English language requirement. Paragraph 276B (indefinite leave on the ground of long residence) contains a requirement that the applicant does not have one or more unspent convictions. This good character requirement for settlement was recently added. Paragraph 276A1 already existed, but an amendment was not made to that section to take into account the change to 276B. The policy position is that an applicant for settlement should not have any convictions. This is not the case for applications for further leave to remain.

4.4 The changes in paragraphs 179, 180, 181, 183, 186, 200, 201 and 210 set out in this Statement shall take effect on 14 June 2012. However, if an applicant has made an application for entry clearance or leave before 14 June 2012 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 13 June 2012. These changes relate to the maintenance funds required of Tier 1 Migrants, Tier 2 Migrants, Tier 5 (Temporary Worker) Migrants, and dependants of migrants in all these categories. These funds must be held by applicants for 90 days before the date of application. The changes shall not take effect until 14 June 2012 to give applicants adequate time to prepare.

4.5 The changes in paragraph 213 archive old Rules which no longer apply.

4.6 The changes in paragraph 214 to the criteria for Indefinite Leave to Remain for migrants in the Tier 2 (General), Tier 2 (Sportspersons) and Tier 2 (Ministers of Religion) categories are expected to take effect on 6 April 2016. Applications for Indefinite Leave to Remain made by migrants in these categories before this date will be considered in accordance with the rules in force at the time of application.

4.7 The other changes in this Statement shall take effect on 6 April 2012. However, if an applicant has made an application for entry clearance or leave before 6 April 2012 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 5 April 2012.

#### **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:

#### ***Amendments to the Rules for Visitors***

7.2 Amendments are being made to the Visitor rules to create a new category for a small number of specified permitted activities where applicants will be allowed to receive fee payment. The new route will be restricted to those coming for one month or less and will be an alternative to requiring Sponsorship under the Points-Based System for these activities.

7.3 This new Visitor route (“A visitor undertaking permitted paid engagements”) will cater for a limited group of professionals who are invited to come to the United Kingdom to carry out an engagement that relates to their particular skill or expertise. The permitted activities allowed are :

- visits to give a lecture, or to examine students, participate in or chair selection panels;
- visits by overseas designated air-pilot examiners, to assess United Kingdom based pilots to ensure they meet that country’s national air regulatory requirements;
- visits to provide advocacy in a particular area of law as a qualified lawyer for the purposes of a court or tribunal hearing, arbitration or other form of alternative dispute resolution at the invitation of a client based in the United Kingdom or a foreign based client for legal proceedings in the United Kingdom;
- visits by professional artists, entertainers and sports-persons carrying out activities relating to their main profession at the request of a United Kingdom based arts or sports organisation or United Kingdom based broadcaster. This would include for example, artists, sculptors and photographers who are exhibiting and selling their works; authors doing book-signings and/or participating in literary prize panels; entertainers giving one-off or a short series of performances and sports-persons carrying out broadcasting or other activities relating to their field of sport.

#### ***Amendments to Tier 1 of the Points-Based System***

7.4 Tier 1 of the Points-Based System caters for high value migrants, and was launched on 29 February 2008. Tier 1 currently consists of five categories: Tier 1 (Exceptional Talent), Tier 1 (General) – closed to new applicants on 6 April 2011, Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Post-Study Work).

7.5 The Tier 1 (Exceptional Talent) category is for exceptionally talented individuals in the fields of science, humanities, engineering and the arts, who wish to work in the UK. This category was subject to an annual limit of 1,000 places in 2011/12. No changes are being made to this category, but this Statement implements new annual limits of 1,000 places for 2012/13 and 2013/14. The Secretary of State intends to carry out a full review of this route over spring/summer 2012.

7.6 The Tier 1 (Post-Study Work) category allows migrants almost unrestricted access to the UK labour market for two years after graduation. This category is being closed to new applicants. The Rules for this category (including the Rules for Attributes set out in Appendix A) are being added to the archive of historical Immigration Rules in Appendix F.

7.7 A new Tier 1 (Graduate Entrepreneur) category is being introduced for graduates who have been identified by Higher Education Institutions (HEIs) as having developed world class innovative ideas or entrepreneurial skills, to extend their stay in the UK after graduation to develop their business. Previously such graduates may have used Tier 1 (Post-Study Work) for this purpose. This new category will operate as follows:

- The scheme will be open to all HEIs which are Highly Trusted Sponsors for the purposes of Tier 4 of the Points-Based System, and A Rated for the purposes for Tier 2 and Tier 5 if such a licence is held. The HEIs must also have an established process for identifying, nurturing and developing entrepreneurs amongst their undergraduate and post graduate population.
- Applicants will need to be in the UK and sponsored by the HEI from which they have been awarded a Bachelor degree, Masters degree or PhD. HEIs will have the freedom to decide how to best identify the strongest candidates.
- There will be an overall limit of up to 1,000 places for initial applications for each of the first two years. This limit will be divided equally between participating HEIs. The Secretary of State will not publish progress against the limit, as all places will be allocated to participating HEIs at the start of the year and it will be for HEIs to manage their individual allocations. The limit will not apply to extension applications.
- Successful applicants will be granted leave for 12 months initially, which may be extended for a further 12 months, providing the sponsoring HEI is satisfied with the progress they have made.
- Applicants will be expected to spend the majority of their time developing their businesses, but may also undertake other work for up to 20 hours a week to support themselves. They will be able to bring dependants and will be required to demonstrate that they, and their dependants, meet the Tier 1 maintenance requirements.
- Time in this category will not count towards the qualifying period for settlement in the UK. At the end of the second year in this category, migrants must either switch into Tier 1 (Entrepreneur) or leave the UK. The funds required to switch into Tier 1 (Entrepreneur) will be lowered for Tier 1 (Graduate Entrepreneur) Migrants who are registered as self-employed or as a director, from £200,000 to £50,000.
- This lower threshold will also apply to existing Tier 1 (Post-Study Work) Migrants who are registered as self-employed or as a director. These groups will not need additional

funding when they subsequently apply to extend their Tier 1 (Entrepreneur) leave, but they will otherwise need to satisfy the full Tier 1 (Entrepreneur) extension criteria, including the requirement to have created at least two jobs for resident workers.

7.8 A simplification is being made to the Tier 1 (Entrepreneur) category, which is for migrants establishing or taking over a UK business. Where two applicants form an entrepreneurial team, the dates relating to their investment and business activity were previously tied to the date of the earlier team member's application. This requirement is considered to be unnecessary and is being removed, which will give the second team member more time to satisfy the criteria.

7.9 A change is being made to the Tier 1 (Entrepreneur) and Tier 1 (Investor) categories to ensure that migrants who have had leave in these categories within the last 12 months must satisfy the extension criteria if they wish to apply for further leave in these categories.

7.10 A clarification is being made that Tier 1 (Exceptional Talent) and Tier 1 (Graduate Entrepreneur) applications may not be submitted at Public Enquiry Offices.

### ***Amendments to Tier 2 of the Points-Based System***

7.11 Tier 2 of the Points-Based System caters for skilled workers with a job offer, and was launched on 27 November 2008. Tier 2 consists of four categories: Tier 2 (Intra-Company Transfer), Tier 2 (General), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). The Intra-Company Transfer category consists of four sub-categories: Short Term Staff, Skills Transfer, Graduate Trainee, and Long Term Staff.

7.12 These changes introduce new post-study work provisions into Tier 2 further to the closure of Tier 1 (Post-Study Work). These provisions are as follows:

- The provisions are available to migrants in Tier 4 (General) and its predecessor categories (Student, Student Nurse, a Student Re-Sitting an Examination, Person Writing Up a Thesis, Overseas Qualified Nurse or Midwife, Postgraduate Doctor or Dentist, Student Union Sabbatical Officer) whose leave has not expired.
- Applicants must have lawfully completed and passed a UK degree, Postgraduate Certificate in Education or Professional Graduate Diploma of Education, or have completed a minimum of 12 months study in the UK towards a UK PhD, during their current leave (including previous leave, providing their leave has been continuous). The provisions are restricted to the named qualifications only and do not include, for example, vocational qualifications at degree level which are not degrees.
- The course must have been studied at a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.
- Applicants will be able to apply from within the UK to switch into Tier 2 (General) following graduation without their sponsoring employer needing to satisfy the Resident Labour Market Test. All other Tier 2 (General) criteria will apply.
- At present, existing Tier 1 (Post-Study Work) Migrants can also switch into Tier 2 (General) without their sponsoring employer needing to satisfy the Resident Labour Market Test, but only where they have worked for that employer for at least six months (or the job is otherwise exempt because, for example, it is in a shortage occupation). As the

above provisions will mean that graduates switching from student routes will be exempt from the test without having previously worked for their employer, the six month requirement for existing Tier 1 (Post-Study Work) Migrants is being removed from 6 April in line with this.

- A change is being made so that no other migrants in student routes (including those who have studied the qualifications above but have not graduated) will be able to switch into Tier 2 from within the UK. This change is in line with the Government's view that student routes should not be seen as routes to working or settling in the UK. If such students wish to apply under Tier 2 they will need to make an entry clearance application and will be required to meet the full criteria. If they are applying under Tier 2 (General) they will be subject to the Resident Labour Market Test.

7.13 These changes make a number of amendments to the periods of leave to remain granted to Tier 2 Migrants, as follows:

- A maximum period of 6 years in total as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant is being introduced. The various Tier 2 (Intra-Company Transfer) sub-categories are already subject to maximum periods of leave.
- To prevent this maximum period from being undermined, Tier 2 Migrants in any category (including Tier 2 (Intra-Company Transfer)) will not be able to be granted entry clearance to return as a Tier 2 Migrant in any category until at least 12 months after their previous Tier 2 leave expires. Equivalent arrangements in-country will prevent those here in another immigration category from switching into the Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant sub-categories if they have held Tier 2 leave in the last 12 months.
- When Tier 2 was introduced on 27 November 2008, a transitional arrangement was implemented for migrants switching from previous routes that were deleted (such as work permit holders). This arrangement enabled such applicants to extend their stay in the UK under Tier 2 to 5 years in total, or longer in some circumstances, in a single successful application. The formula used to calculate such grants of leave is now unnecessarily complex and is potentially confusing to applicants and UK Border Agency staff. The formula is being deleted and replaced with a simplified grant of 3 years plus 14 days leave to remain. Enough time has passed that no applicant should be disadvantaged by this change.
- A further simplification is being made to grants of leave to remain for Tier 2 (General), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). Previously a migrant who is already in one of these categories and applying to extend their stay would be granted different lengths of leave depending on whether they were remaining in the same job, or changing job or employer. These grants of leave are now being standardised at the period of sponsorship plus 14 days, or 3 years plus 14 days from the date of decision, whichever is shorter. No applicant will be disadvantaged by this change.

7.14 Changes are being made to the Immigration Rules for Indefinite Leave to Remain applications made from April 2016 in the following categories of the Points Based System: Tier 2 (General), Tier 2 (Sportspersons) and Tier 2 (Ministers of Religion). We are publishing these rules now so that migrants and employers are aware of the changes. These changes are

being set out in a new Appendix I to the Immigration Rules. Applications for Indefinite Leave to Remain made before April 2016 will be considered against the rules in place at the time.

7.15 A summary of the changes being made with effect from April 2016 are:

- A change is being made to the Tier 2 (General) and Tier 2 (Sportspersons) categories so that migrants who apply for Indefinite Leave to Remain in these categories will need to demonstrate that they are being paid either a gross salary of £35,000 per annum or the appropriate rate for their job as set out in Codes of Practice which are published on the UK Border Agency website, whichever is higher. This change applies a new minimum pay threshold to these categories.
- A change is being made to Appendix A – Attributes for Tier 2 (General) and Tier 2 (Sportspersons) Migrants, to explain how we will calculate the new pay threshold.
- A minor change is being made to the Tier 2 (Sportsperson) category to require the migrant's employer at the time of the application for Indefinite Leave to Remain, to provide specified evidence to demonstrate that the migrant meets the new pay threshold.
- Migrants who apply for Indefinite Leave to Remain and are being sponsored to do a job which appears or has appeared on either the list of PhD-level occupation codes as stated in the Sponsor Guidance published by the UK Border Agency, or the published shortage occupation list, during any time the applicant was being sponsored to do that job, will be exempt from the requirement to meet the revised £35,000 minimum pay threshold. They will still need to meet the requirement to be paid at the appropriate rate for their job as set out in the published Codes of Practice.
- The Tier 2 (Minister of Religion) rules for Indefinite Leave to Remain are being separated from the Tier 2 (General) and Tier 2 (Sportspersons) rules. This is because the settlement criteria for Ministers of Religion are not subject to the same changes.

7.16 Changes are being made to Tier 2 (General) to set out the Resident Labour Market Test details which must be stated on a Certificate of Sponsorship, and details of two existing exemptions from the test:

- Where the job offers a salary of at least £150,000;
- Where an applicant is continuing as a doctor or dentist in training under an existing NHS Training Number.

These details were previously set out in UK Border Agency guidance.

7.17 Tier 2 Migrants are restricted to working in the job they are being sponsored for, plus limited supplementary employment and voluntary work. A change is being made so that if a Tier 2 (General), Tier 2 (Minister of Religion) or Tier 2 (Sportsperson) Migrant's application for further leave is decided early, they may continue to work in any existing job until the start date of their new job, as indicated by their sponsoring employer.

7.18 A change is being made to enable Tier 2 (Intra-Company Transfer) Migrants to switch into other Tier 2 categories, providing their Tier 2 (Intra-Company Transfer) leave was granted before 6 April 2010 and they are applying to change employer. This is an existing transitional arrangement relating to previous changes to the Rules, and was previously set out in UK Border Agency guidance.

7.19 An amendment is being made to clarify that the list of graduate occupations in which Tier 2 (General) Migrants and Tier 2 (Intra-Company Transfer) Migrants can be sponsored to work is a list of occupations skilled to National Qualifications Framework level 4 or above.

7.20 An amendment is being made to clarify that the provision for Tier 5 Migrants who are professional footballers to switch into Tier 2 applies only when they apply to switch into the Tier 2 (Sportsperson) category.

7.21 Redundant definitions relating to the Tier 2 (General) interim limit, which closed on 5 April 2011, are being deleted.

#### ***Amendments to Tier 4 of the Points-Based System***

7.22 Tier 4 of the Points-Based System caters for international students who wish to study in the United Kingdom. As with other parts of the Points-Based System, Tier 4 was implemented in phases, with the introduction of the main policy changes on 31 March 2009. Tier 4 consists of two categories: Tier 4 (General) Student and Tier 4 (Child) Student.

7.23 The Government ran a public consultation on reform of the Tier 4 student immigration system from 7 December 2010 to 31 January 2011. The Statement of Changes HC908 set out the first set of changes to the Rules governing Tier 4 following consideration of the responses received to the consultation. A Statement of Intent was also published alongside those Rules changes, setting out the other changes the Government planned to make over the subsequent year. This was to enable education providers and users of the UK's student immigration system to understand the plans for reform and take such steps to prepare themselves as are appropriate. Statement of Changes HC1148 set out the second set of changes to the Rules governing Tier 4. This Statement sets out the third set of changes to the Rules governing Tier 4, as previously announced in the Statements of Intent published in March 2011 and February 2012.

7.24 The following changes are being made to the Tier 4 (General) category, which caters for migrants aged 16 years and over who wish to come to the UK for the purpose of study following on from the review of Tier 4:

- Interim Limit
  - In April 2011 we introduced more rigorous requirements for Tier 4 sponsors, to drive up standards of educational quality and immigration compliance. To continue to be permitted to recruit international students, all sponsors must become Highly Trusted and pass an inspection of their educational provision by a designated independent body.
  - For a transitional period, while these inspections take place, sponsors not meeting the new requirements are subject to an interim limit on the number of Confirmations of Acceptance of Studies (CAS) they can issue.

- An interim limit was established by HC908 for the period 21 April 2011 to 5 April 2012 (the “Former Interim Limit”). These changes effect the continuation of the interim limit for 9 months, from 6 April 2012 to 31 December 2012 and provide for a further allocation of CAS to those sponsors that remain subject to the interim limit, namely those that have applied for Highly Trusted Sponsor status and educational oversight by specified deadlines, but have yet to be assessed in respect of these applications.
- This further allocation of CAS is calculated with reference to the number of CAS allocated under the Former Interim Limit, reduced to reflect the fact that the interim limit imposed by these changes has a duration of only 9 months. Associated calculations, such as the 26% reduction applied to new sponsors immediately subject to the interim limit, are based on the evidence that supported the same calculation under the Former Interim Limit.
- Time at degree level
  - These changes limit the time that can be spent studying under Tier 4 at degree level to five years, subject to the exceptions listed below:
  - Migrants studying for a Masters degree at a Higher Education Institution (HEI), following successful completion of an undergraduate degree where the course duration was 4 or 5 years. For these students the limit will be set at 6 years in total instead of 5. This will cover the typical situation in Scottish universities (but applies also to the rest of the UK).
  - To those studying for a PhD at an HEI. However if on completion of the PhD the time spent in Tier 4 (General) exceeds 8 years, no further leave will be granted in Tier 4.
  - To those following courses in:
    - Architecture;
    - Medicine;
    - Dentistry;
    - Veterinary Medicine & Science;
    - Law (those studying a Graduate Diploma in Law, a Legal Practice Course, the Bar Professional Training Course or for the Common Professional Examination);
    - Music studied at a Conservatoire.
  - The 5 year limit, and exceptions, will operate in addition to time permitted in Tier 4 (General) at below degree level (3 years) and any time spent in the Tier 4 (Child) route.
  - This, together with existing restrictions on the time allowed studying below degree level, new rules on academic progression, and the closure of the Tier 1 (Post Study) route will ensure that student visas are not exploited as a means to remain in the UK indefinitely and without genuine academic intentions.
- Work Placements

- We are reducing the period of time that can be spent on a work placement from one half to one third of the course, meaning that students will have to spend a greater proportion of time undertaking formal study.

This will apply to all courses other than those at degree level or above at a higher education institution, or those forming part of a study abroad programme, where we will retain the current limit of half the time on a work placement.

- A change is being made to enable Tier 4 (General) migrants who are sponsored to train as a doctor or dentist on an NHS Foundation Programme to also undertake supplementary employment as a Doctor or Dentist in Training. Other Tier 4 Migrants will continue to be barred from employment as a Doctor or Dentist in Training. The restriction, and this change, assists with NHS workforce planning.
- A change is being made to enable a parent of child student to apply as a dependant, when the other parent is already lawfully present in the UK
- We are setting a maximum for the amount of pre-paid accommodation deposit that can be off set against maintenance requirements;
- Technical changes, corrections and updates.

### ***Amendments to Tier 5 of the Points-Based System***

7.25 Tier 5 of the Points-Based System caters for youth mobility and temporary workers coming for primarily non-economic purposes, and was launched on 27 November 2008. Tier 5 consists of two categories: Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Workers). The Temporary Workers category consists of five sub-categories: creative and sporting, charity workers, religious workers, government authorised exchange, and international agreement.

7.26 For the sake of clarity, these changes set out in the Immigration Rules various details of the types of role Tier 5 (Temporary Workers) may be sponsored to do in each sub-category. These details were previously set out in UK Border Agency guidance. The criteria themselves remain unchanged.

7.27 A change is also being made, due to the closure of Tier 1 (Post-Study Work), to enable Tier 4 (General) Students to switch into Tier 5 (Temporary Worker) if they are applying under a Government Authorised Exchange scheme to undertake a period of professional training or work experience that is required to obtain a professional qualification or professional registration in the same professional field as their qualification, after graduation and before returning overseas.

7.28 Changes are being made to restrict schemes in the Government Authorised Exchange (GAE) sub-category which relate to internships, work experience/exchanges or youth exchanges to a maximum of 12 months. Other GAE schemes, relating to research, fellowship and training in the fields of science and medicine, will continue to attract leave of 24 months.

7.29 A change is being made to permit sportspersons entering under the Creative and Sporting sub-category to undertake some guest sports broadcasting work where this is not filling a permanent position.

7.30 The following changes are being made to the provisions for private servants in diplomatic households applying under the International Agreement sub-category, for applicants who enter the category under these new Rules (Those already in the category under the existing Rules will not be affected):

- Entry into the UK will be limited to a maximum of five years' stay, or to the length of the applicant's employer's posting, whichever is shorter;
- Applicants will not be able to change employer whilst in the UK;
- Applicants will not be able to apply for settlement in the UK.

### *Amendments to maintenance funds for all Tiers of the Points-Based System*

7.31 These changes uplift the maintenance funds required by Points-Based System Migrants and their dependants. These funds have not changed since the introduction of the Points-Based System in 2008 and 2009 and are being increased to reflect changes in the costs of living and studying in the UK. The new funds required by Tier 4 Migrants are in line with the maximum living costs loan and grant support available for new English domiciled students starting full-time higher education courses from September 2012. In future the Secretary of State proposes to review the maintenance requirements annually.

7.32 The changes to maintenance funds are as set out in the table below. As at present, Tier 1 (Investor) and Tier 1 (Exceptional Talent) migrants and their dependants will be exempt from the maintenance requirement. Funds stated in relation to Tier 4 Migrants are in addition to funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long.

<b>Category</b>	<b>Existing level of funds required</b>	<b>New level of funds required</b>
Tier 1 Migrants	<ul style="list-style-type: none"> <li>• £2,800 for entry clearance applications</li> <li>• £800 for leave to remain applications</li> </ul>	<ul style="list-style-type: none"> <li>• £3,100 for entry clearance applications</li> <li>• £900 for leave to remain applications</li> </ul>
Tier 2 Migrants and Tier 5 (Temporary Worker) Migrants	<ul style="list-style-type: none"> <li>• £800</li> </ul>	<ul style="list-style-type: none"> <li>• £900</li> </ul>
Tier 5 (Youth Mobility Scheme) Migrants	<ul style="list-style-type: none"> <li>• £1,600</li> </ul>	<ul style="list-style-type: none"> <li>• £1,800</li> </ul>
Dependants of Tier 1, 2 and 5 Migrants	<ul style="list-style-type: none"> <li>• £1,600 for dependants of Tier 1 Migrants who have been in the UK for less than 12 months</li> <li>• £533 for all other applicants</li> </ul>	<ul style="list-style-type: none"> <li>• £1,800 for dependants of Tier 1 Migrants who have been in the UK for less than 12 months</li> <li>• £600 for all other applicants</li> </ul>
Tier 4 (General) Students	<ul style="list-style-type: none"> <li>• <b>Inner London</b> - £800 per month, up to a maximum of 9 months (£7,200), or 2 months if the applicant has an established presence (£1,600)</li> <li>• <b>Outer London / rest of UK</b> -</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Inner London</b> - £1,000 per month, up to a maximum of 9 months (£9,000), or 2 months if the applicant has an established presence (£2,000)</li> <li>• <b>Outer London / rest of UK</b> -</li> </ul>

	£600 per month, up to a maximum of 9 months (£5,400), or 2 months if the applicant has an established presence (£1,200)	£800 per month, up to a maximum of 9 months (£7,200), or 2 months if the applicant has an established presence (£1,600)
Dependants of Tier 4 (General) Students	<ul style="list-style-type: none"> <li>• <b>Inner London</b> - £533 per month, up to a maximum of 9 months (£4,797), or 2 months if the applicant has an established presence (£1,066)</li> <li>• <b>Outer London / rest of UK</b> - £400 per month, up to a maximum of 9 months (£3,600), or 2 months if the applicant has an established presence (£800)</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Inner London</b> - £600 per month, up to a maximum of 9 months (£5,400), or 2 months if the applicant has an established presence (£1,200)</li> <li>• <b>Outer London / rest of UK</b> - £450 per month, up to a maximum of 9 months (£4,050), or 2 months if the applicant has an established presence (£900)</li> </ul>
Tier 4 (Child) Students - Where the child will be studying at a non-residential independent school and is in a private foster care arrangement or staying with and cared for by a close relative	<ul style="list-style-type: none"> <li>• £500 per month, for up to a maximum of 9 months (£4,500)</li> </ul>	<ul style="list-style-type: none"> <li>• £550 per month, for up to a maximum of 9 months (£4,950)</li> </ul>
Tier 4 (Child) Students - Where the child will be studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent	<ul style="list-style-type: none"> <li>• £1,333 per month, plus £533 per month for any additional child accompanying the applicant and the parent, up to a maximum of 9 months (£11,997 for the student and parent plus £4,797 for any additional child)</li> </ul>	<ul style="list-style-type: none"> <li>• £1,500 per month, plus £600 per month for any additional child accompanying the applicant and the parent, up to a maximum of 9 months (£13,500 for the student and parent plus £5,400 for any additional child)</li> </ul>
Tier 4 (Child) Students - Where the child is aged 16 or 17 years old and is living independently and studying in inner London	<ul style="list-style-type: none"> <li>• £800 per month of the course up to a maximum of 9 months (£7,200), or 2 months if the applicant has an established presence (£1,600)</li> </ul>	<ul style="list-style-type: none"> <li>• £900 per month of the course up to a maximum of 9 months (£8,100), or 2 months if the applicant has an established presence (£1,800)</li> </ul>
Tier 4 (Child) Students - Where the child is aged 16 or 17 years old, is living independently	<ul style="list-style-type: none"> <li>• £600 per month of the course up to a maximum of 9 months (£5,400), or 2 months if if the applicant has an established presence (£1,200)</li> </ul>	<ul style="list-style-type: none"> <li>• £700 per month of the course up to a maximum of 9 months (£6,300), or 2 months if the applicant has an established presence (£1,400)</li> </ul>

and studying in outer London or elsewhere in the UK		
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7.33 A change is being made to expand the existing rule regarding verification of maintenance funds, introduced on 4 July 2011. No points will be awarded for maintenance where the specified documents show that the funds are held in a financial institution with which the UK Border Agency is unable to make satisfactory verification checks. This rule previously applied to Tier 4 Migrants and their dependants and is now being expanded to include all Points-Based System Migrants and their dependants. A list of financial institutions which do not satisfactorily verify financial statements is published on the UK Border Agency website.

7.34 A change is being made to remove the automatic granting of maintenance points to migrants switching into Tier 2 under the post-study work provisions. This is because, as described earlier in this Explanatory Memorandum, the post-study work provisions will no longer require applicants to already be in employment with their Sponsor (which provided some guarantee that they were able to support themselves financially).

7.35 A clarification is being made to confirm that the 28-day and 90-day periods (during which maintenance funds must be held by applicants) are calculated in the same way for applications by dependants as they are for applications by main applicants. The specified period of time is taken as ending from the date of the closing balance of the most recent supporting document, such as a bank statement, and this end date must be no earlier than 31 days before the date of application.

7.36 An amendment is being made so that if an A-rated Sponsor certifies maintenance on behalf of a Tier 2 Migrant's dependants, that certification must be for the first month of the dependant's leave, rather than the first month of the Tier 2 Migrant's employment.

***Other cross-cutting amendments to the Points-Based System***

7.37 The UK Border Agency is launching a Premium Sponsor scheme in Tier 2 and Tier 5 in 2012. The new status will be available only to A-Rated Sponsors who pay the appropriate fee. Sponsors who achieve Premium Sponsor status will have access to a range of optional premium service benefits. A change is being made so that Tier 2 and Tier 5 applicants whose applications are supported by a Premium Sponsor may request the immediate return of their passports (before their applications are decided) without this having the effect of withdrawing their applications.

7.38 This Statement of Changes revises Appendix B of the Immigration Rules, which sets out the English language requirements for the Points-Based System. The changes are being made to remove multiple cross-references between paragraphs, which were complex and potentially confusing. The requirements themselves are largely unchanged, other than the following:

- The changes clarify that the “basic user standard” required of some applicants means level A1 of the Council of Europe's Common European Framework for Language Learning.
- A change is being made so that no points will be awarded for meeting the English language requirement in a previous grant of leave if false representations were made or false documents or information were submitted (whether or not to the applicant's knowledge) in relation to the requirement in that previous application.

- Changes are being made to the existing transitional arrangements for migrants applying to switch into Tier 2 from deleted predecessor categories. The transitional arrangements were introduced at the same time as Tier 2, on 27 November 2008. They enabled migrants in deleted predecessor categories to extend their total stay in the UK to five years without having to meet certain new Tier 2 requirements, including English language ability. These changes are to the benefit of applicants, and reflect existing UK Border Agency practice, but were not previously set out in Appendix B. The changes mean that these applicants are exempt from needing to prove their English language ability when they switch into Tier 2 and will continue to be exempt when they apply for further extensions in the UK, including extensions to take their total stay beyond five years. They will still be required to show they have sufficient knowledge of the English language and life in the UK if they wish to apply for settlement. The changes also extend the transitional arrangements for other Tier 2 categories to include Tier 2 (Sportsperson) as well.

7.39 A change is being made so that children born in the UK to Points-Based System Migrants may have their stay regularised as dependants of Points-Based System Migrants. Previously the only way for such children to have their stay regularised was outside the Points-Based System.

7.40 Amendments are being made to the Rules for Tier 2 (Minister of Religion) and the religious workers sub-category of Tier 5 (Temporary Worker) to bring an existing requirement within the Immigration Rules. The requirement, to provide a letter confirming details of the position the applicant is being sponsored for and how the Resident Labour Market Test is satisfied, was previously set out in guidance.

7.41 A clarification is being made to the meaning of “ceases working” in the grounds for curtailment of leave for Tier 2 Migrants and Tier 5 (Temporary Worker) Migrants. The clarification confirms that leave may be curtailed if a migrant continues to be employed by, but ceases working for, their sponsoring employer for a month or longer, unless this is solely to maternity, paternity or adoption leave, or long-term sick leave.

7.42 The rule that a Certificate of Sponsorship may not be used for more than one application, regardless of whether the application was approved or refused, but may be re-used if an application is rejected as invalid or withdrawn, is being standardised across all Tier 2 categories and the Tier 5 (Temporary Worker) category. Previously this rule operated in a slightly different way in different categories.

### ***Amendments to Overseas Domestic Workers in Private Households***

7.43 This category enables people coming to the UK to bring with them their foreign domestic staff, for example nannies, chauffeurs and cooks. The following changes are being made for applicants who enter this category under these new Rules (Those already in the category under the existing Rules will not be affected):

- Entry into the UK will be limited to a maximum of six months, with no extensions beyond this time;
- Applicants will only be able to enter the UK where they are accompanying their employer (or the employer’s spouse or child) who is also coming here at the same time as a visitor or who has come here in that capacity;

- Applicants will be required to leave the UK at the same time as their employer;
- Applicants will not be able to change employer whilst in the UK;
- Applicants will not be able to apply for settlement in the UK;
- Applicants will not be able to bring dependants with them, unless they qualify in their own right, for example as a visitor.

#### ***Amendments to the rules relating to curtailment***

7.44 The Immigration Rules currently set out when the UK Border Agency may curtail leave to enter or remain where a migrant is non-compliant. Discretionary casework requires case by case consideration. The aim of the new policy is to strengthen the Agency's response to migrant non-compliance by introducing a set of circumstances under which curtailment will be mandatory, not requiring case by case consideration. These cases will either be triggered by notifications received from Sponsors under Tiers 2, 4 and 5 of the Points Based System which confirm that sponsorship has been withdrawn from a migrant for reasons of non-compliance or by way of UK Border Agency investigations and / or Sponsor compliance visits that reveal such non-compliance.

7.45 Mandatory curtailment will only occur where that temporary migrant is not pursuing the purpose of their leave. Migrants subject to mandatory curtailment will normally be given 60 days to make an application to vary their leave or change their Sponsor. This will enable any migrants who have parted company with their Sponsor for legitimate reasons to remain in the UK and seek a replacement Sponsor. Those who do not make a successful application to vary their leave and/or their Sponsor within the 60 days following mandatory curtailment will be subject to appropriate enforcement action. Simplifying the curtailment process in these cases will enable the UK Border Agency to deliver a more robust and sustainable enforcement response against non-compliant temporary migrants.

7.46 However, in some circumstances curtailment will not be mandatory and the UK Border Agency will consider on the facts of the case whether curtailment is appropriate. This will include cases where:

- the migrant is under 18 or has a child dependant.
- the migrant has an outstanding application with the UK Border Agency for leave to enter or remain with another sponsor or in another immigration category or has a pending appeal under section 82 of the Nationality, Immigration and Asylum Act 2002.

#### ***Other amendments***

7.47 Changes are being made to the General Grounds for Refusal, so that applicants in any category may be refused if they have made false representations in order to obtain supporting documents for their application, for example, using false representations to obtain a genuine qualification.

7.48 The following redundant provisions are being deleted from the Rules:

- Work permit employment and Multiple Entry work permit employment – Work permits and Multiple Entry work permits ceased to be issued to non-EEA nationals following the introduction of Tier 2 on 27 November 2008. The existing settlement provisions being are maintained for migrants who currently have leave as work permit holders.
- Extension provisions in the category for Overseas Qualified Nurses and Midwives. This category closed to new applicants on 27 November 2008 and permitted a total maximum stay of 18 months. Therefore there will be no remaining applicants who can qualify for extensions.
- The Seasonal Agricultural Workers Scheme (SAWS) – Since 1 January 2007, SAWS work cards have only been issued to Bulgarian and Romanian nationals who, as European Union nationals, are outside the scope of these Rules.

7.49 The Rules for the above categories are being added to the archive of historical Immigration Rules in Appendix F.

7.50 Technical changes are being made to the Rules for Representatives of Overseas Businesses. These changes set out the English language requirement in full, as opposed to cross-referring to the Points-Based System Rules in Appendix B. The changes also clarify that the required “basic user standard” means level A1 of the Council of Europe’s Common European Framework for Language Learning.

7.51 A small number of minor technical corrections are being made to cross-references and paragraph numbering in various sections of these Rules.

7.52 Changes are being made to paragraph 276A1 to remove an unintended requirement. Before 2 April 2007 it was not possible to grant limited leave to remain on the basis of long residence. On 2 April 2007, paragraph 276A1 and paragraph 276A2 were added to the Immigration Rules to allow long residence applicants to be granted an extension of limited leave to remain if they met all the requirements for indefinite leave on the basis of long residence, except for the knowledge of language and life in the UK requirement. Since 6 April 2011 a person who applies for settlement must show that they do not have any unspent convictions (as defined by the Rehabilitation of Offenders Act 1974). This is a requirement for settlement in all immigration routes, but there is not such requirement for further leave to remain.

## **8. Consultation**

8.1 The Secretary of State consulted publicly on ensuring students return overseas after their courses and closing the Tier 1 (Post-Study Work) category in “The Student Immigration System – a Consultation”, which ran from 7 December 2010 to 31 January 2011. The consultation document and a summary of the findings are published on the UK Border Agency website at [www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/students/](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/consultations/students/)

8.2 The Secretary of State consulted publicly on the changes to employment related settlement, Tier 5 and overseas domestic workers. The consultation ran from 9 June to 9 September 2011 and a summary of the responses is published on the Home Office website at: <http://www.homeoffice.gov.uk/publications/immigration/employment-related-settlement/>

8.3 The Secretary of State also commissioned the Migration Advisory Committee (MAC) to report on the following questions:

- *What would be the economic effects of restricting or removing settlement rights in Tiers 1 and 2 and/or restricting leave to a maximum of 5 years?*
- *If settlement were to be restricted:*
  - *which economic criteria could be used to identify the most economically important Tier 2 migrants for settlement?*
  - *would there be merit in making allowance for specific skills or occupations as part of the assessment criteria, based on factors including strategic economic importance, provision of key public services, and ensuring that the UK attracts the top global talent?*

8.4 The MAC issued a public call for evidence regarding these questions, which ran from 21 June 2011 to 31 August 2011. The MAC published its report on 4 November 2011. The report is available on the UK Border Agency website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/aboutus/workingwithus/mac/settlement-restrictions-workers/>

8.5 A statement of intent which outlines the Government's plans for implementation of changes to the settlement rules for Tier 2 workers, changes to the Tier 5 and overseas domestic worker rules, and a new visitor route for permitted paid engagements was published on 29 February and is available on the Home Office website at: <http://www.homeoffice.gov.uk/publications/immigration/employment-related-settlement/>

8.6 A further Statement of Intent, providing more detail of the Government's plans for implementation of changes to reform Tier 4, was published on 13 February on the Home Office website at: [www.homeoffice.gov.uk/publications/agencies-public-bodies/changes-study-visa-soi](http://www.homeoffice.gov.uk/publications/agencies-public-bodies/changes-study-visa-soi)

8.7 No formal consultation has taken place on making curtailment mandatory in the circumstances specified above. However, in October 2011 the UK Border Agency consulted the Joint Education Taskforce on proposed changes to the Sponsor Management System (SMS), which sponsors use to fulfil their duty to inform the UK Border Agency if a migrant's circumstances change or they cease to pursue their studies / work. The Taskforce response to the proposed changes, which seek to reduce the reporting burden on Sponsors and focus the notification process to support downstream curtailment decision making, was overwhelmingly positive.

8.8 The other changes in this Statement have not been subject to consultations as this would be disproportionate to the minor nature of the changes.

## **9. Guidance**

9.1 Information on these changes is being 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 to the settlement rules for Tier 2 (General), Tier 2 (Sportspersons) and Tier 2 (Minister of Religion) has been published on the Home Office website at [www.homeoffice.gov.uk/publications/](http://www.homeoffice.gov.uk/publications/)

10.2 An Impact Assessment on the changes to the rules for Tier 5 and overseas domestic workers has been published on the Home Office website at [www.homeoffice.gov.uk/publications/](http://www.homeoffice.gov.uk/publications/)

## **11. Regulating small business**

11.1 The changes to Tier 2 and Tier 5 of the Points-Based System will apply to small businesses that are licensed as Tier 2 and/or Tier 5 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.

12.3 The annual limits introduced by this Statement apply only to the period 6 April 2012 to 5 April 2014. These limits will be reviewed before 6 April 2014 and a further Statement of Changes will be laid before Parliament to set out the limits for the following year.

## **13. Contact**

13.1 Queries specifically regarding this Statement of Changes only should be addressed as follows:

- Visitors: to Alicia Ioannou at the Home Office on 0207 035 3606 or e-mail to: [Alicia.Ioannou3@homeoffice.gsi.gov.uk](mailto:Alicia.Ioannou3@homeoffice.gsi.gov.uk)
- Points-Based System Tiers 1, 2 and 5 (other than settlement and Premium Sponsorship): to Richard Jackson at the Home Office on 0114 207 8373 or email to: [Richard.Jackson@homeoffice.gsi.gov.uk](mailto:Richard.Jackson@homeoffice.gsi.gov.uk)
- Points-Based System Tier 4: to Gareth Morris at the Home Office on 020 7035 4298 or e-mail to: [Gareth.Morris12@homeoffice.gsi.gov.uk](mailto:Gareth.Morris12@homeoffice.gsi.gov.uk)
- Settlement: to Alan Boyd at the Home Office on 020 7035 6955 or e-mail to: [WorkSettlementConsultations@homeoffice.gsi.gov.uk](mailto:WorkSettlementConsultations@homeoffice.gsi.gov.uk)

- Premium Sponsorship for Tiers 2 and 5: to Gemma Barlow at the UK Border Agency on 0114 207 2522 or e-mail to: [Gemma.Barlow@homeoffice.gsi.gov.uk](mailto:Gemma.Barlow@homeoffice.gsi.gov.uk)
- Domestic Workers in Private Households: to Mary Batchelor at the Home Office on 0207 035 6907 or e-mail to: [Mary.Batchelor@homeoffice.gsi.gov.uk](mailto:Mary.Batchelor@homeoffice.gsi.gov.uk)
- Curtailment: to Neil Curtis at the Home Office on 0207 035 0085 or e-mail to: [Neil.Curtis@homeoffice.gsi.gov.uk](mailto:Neil.Curtis@homeoffice.gsi.gov.uk)
- Further leave to remain on the basis of long residence: Jane Whitehead at the UK Border Agency on 0151 213 4442 or email to: [Jane.Whitehead@homeoffice.gsi.gov.uk](mailto:Jane.Whitehead@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/](http://www.ukba.homeoffice.gov.uk/contact/).