



Home Office

# Immigration Rules

## Appendix S

Qualifying for indefinite leave to remain after four years' continuous residence

This is a consolidated version of the current Immigration Rules.

1. In this appendix, all references to the Highly Skilled Migrants Programme refer to the scheme of that name that operated until 7 November 2006.

2. Paragraphs 4 - 16 of this appendix cover migrants who:

- a. Received a Highly Skilled Migrants Programme approval letter issued on the basis of an application made before 3 April 2006; and
- b. Were granted Entry Clearance or Leave to Remain on the basis of that letter; and
- c. Fall into one of the following five categories:
  - i. Have already settled in the United Kingdom under Highly Skilled Migrants Programme or Tier 1 (General) on the basis of having completed five years continuous residence in a qualifying category;
  - ii. Have completed four years continuous residence in the United Kingdom in a qualifying category;
  - iii. Are coming up to having completed four years continuous residence in the United Kingdom in a qualifying category;
  - iv. Had applied for Indefinite Leave to Remain after four years, were refused, and either:
    1. won an appeal against the refusal decision and were then granted permission to stay; or
    2. did not appeal the refusal decision or their appeal was dismissed;
  - v. Those who have completed four years continuous residence in the United Kingdom in a qualifying category and have submitted an application for Further Leave to Remain (FLR).

3. Paragraph 17 of this appendix covers migrants who:

- a. Received a Highly Skilled Migrants Programme approval letter issued on the basis of an application made between 3 April 2006 and 7 November 2006; and
- b. Were granted Entry Clearance or Leave to Remain on the basis of that letter.

## **Requirements for Indefinite Leave to Remain under the terms of this appendix for those groups covered by paragraph 2 of this appendix**

4. The requirements for Indefinite Leave to Remain for a person qualifying for consideration under this appendix are that they:

- a. have spent a continuous period of four years lawfully in the United Kingdom, of which the most recent period must have been spent with leave as a highly skilled migrant, and

the remainder must be made up of leave as a highly skilled migrant, leave as a work permit holder (under paragraphs 128 to 133 of the Immigration Rules), leave as an Innovator (under paragraphs 210A to 210F of the Immigration Rules) or leave as a Tier 1 (General) migrant;

b. had applied to enter onto the Highly Skilled Migrants Programme before the qualifying period for Indefinite Leave to Remain was increased from four to five years on 3 April 2006, and was successful in that application;

c. have throughout the period of four years maintained and accommodated themselves and any dependants adequately without recourse to public funds; and

d. are lawfully economically active in the United Kingdom in employment, self-employment or a combination of both.

### **Those who have already settled in the United Kingdom under Highly Skilled Migrants Programme or Tier 1 (General) on the basis of having spent completed five years' continuous residence in the UK in a qualifying category**

5. These migrants gained an initial grant of one year's leave under the Highly Skilled Migrants Programme requirements, then extended their initial year grant by a further three years, and were subsequently required to make a second extension application in order to have completed five years continuous residence in the UK.

### **Those who have completed four years' continuous residence in the United Kingdom in a qualifying category**

6. These migrants gained an initial grant of one year's leave under the Highly Skilled Migrants Programme requirements, then extended their initial year grant by a further three years, and were subsequently required to make a second extension application in order for them to complete the fifth years' continuous residence in the United Kingdom.

7. Migrants will be allowed to apply for Indefinite Leave to Remain after they have completed four years qualifying residence.

8. The requirements for Indefinite Leave to Remain will be those described in paragraph 4 of this appendix.

## **Those who are coming up to having completed four years' continuous residence in the United Kingdom in a qualifying category**

9. These migrants gained an initial grant of one year's leave under the Highly Skilled Migrants Programme requirements, or a grant of two years where their application was made before 3 April 2006 but not approved until after this date, and then extended their initial year grant by either three or four years.

10. The migrants described in the paragraph above will be allowed to apply for Indefinite Leave to Remain after they have completed four years qualifying residence.

11. The requirements for Indefinite Leave to Remain will be those described in paragraph 4 of this appendix.

## **Those who applied for settlement after four years, were refused, and either won an appeal against the refusal decision and were then granted permission to stay, or did not appeal the refusal decision or their appeal was dismissed**

12. These migrants will be entitled to apply for their original Indefinite Leave to Remain application to be reviewed under the requirements set out in paragraph 4 of this appendix.

13. If the migrant meets the requirements of paragraph 4 of this appendix their leave will be varied to Indefinite Leave to Remain under the Highly Skilled Migrants Programme.

## **Those who have completed four years' continuous residence in the United Kingdom in a qualifying category and have submitted an application for Further Leave to Remain**

14. These migrants gained an initial grant of one year's leave under the Highly Skilled Migrants Programme requirements, then extended their initial year grant by a further three years, and have now made a second extension application in order to complete five years continuous residence in the United Kingdom.

15. The migrants described in the paragraph above will be invited to vary their application to an indefinite Leave to Remain application under the terms of this appendix.

16. The requirements for Indefinite Leave to Remain will be those described in paragraph 4 of this appendix.

## Requirements for Indefinite Leave to Remain under the terms of this appendix, for those groups covered by paragraph 3 of this appendix

17. The requirements for Indefinite Leave to Remain for a person qualifying for consideration under this appendix are that they:

- a. have spent a continuous period of five years lawfully in the United Kingdom, of which the most recent period must have been spent with leave as a highly skilled migrant, and the remainder must be made up of leave as a highly skilled migrant, leave as a work permit holder (under paragraphs 128 to 133 of the Immigration Rules), leave as an Innovator (under paragraphs 210A to 210F of the Immigration Rules) or leave as a Tier 1 (General) migrant;
- b. had applied to enter onto the Highly Skilled Migrants Programme between 03 April 2006, and 7 November 2006 and was successful in that application;
- c. have throughout the period of five years maintained and accommodated themselves and any dependants adequately without recourse to public funds; and
- d. are lawfully economically active in the United Kingdom in employment, self-employment or a combination of both.

## General Grounds for Refusal

18. Where the migrant falls for refusal under the General Grounds for Refusal in paragraphs 320-322 of the Immigration Rules, their application should be refused even if it otherwise qualifies under the terms of this appendix.

## Dependants

19. Dependants of migrants in the categories covered by this appendix will be granted leave in line with that granted to the main applicant in this appendix.