

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 9 March 2009 under section 3(2) of
the Immigration Act 1971*

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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 Act 1971 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 (Cmnd 2663), 26 October 1995 (HC 797), 4 January 1996 (Cmnd 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cmnd 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cmnd 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cmnd 3953), 8 October 1998 (Cmnd 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cmnd 4851), 27 August 2001 (Cmnd 5253), 16 April 2002 (HC 735), 27 August 2002 (Cmnd 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 (Cmnd 5829), 24 August 2003 (Cmnd 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 (Cmnd 6297), 24 September 2004 (Cmnd 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) and 9 February 2009 (HC 227).

The changes in paragraphs 7 to 9 shall take effect on 6 April 2009.

The other changes shall take effect on 31 March 2009. However, if an applicant has made an application for leave before 31 March 2009 under any of the paragraphs of the Rules deleted by paragraph 27, and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 30 March 2009 as set out in Appendix F.

1. In paragraph 6:
 - (a) after the definition of Work Permit Holder, insert:

“ “Prospective Student” means a migrant who is granted leave under paragraphs 82 to 87 of these Rules”,
 - (b) after the definition of “Tier 2 Migrant”, insert:

“ “Tier 4 (General) Student” means a migrant granted leave under paragraphs 245ZT to 245ZY of these Rules.”

“Tier 4 (Child) Student” means a migrant granted leave under paragraphs 245ZZ to 245ZZD of these Rules.

“Tier 4 Migrant” means a Tier 4 (General) Student or a Tier 4 (Child) Student.”,
 - (c) in the definition of “Points Based System Migrant”, after “Tier 2 Migrant” insert “, Tier 4 Migrant”,
 - (d) in paragraph (b) of the definition of “Special Visitor”, after “for the purpose of marriage” insert “or to enter into a civil partnership”,
 - (e) in the definition of “Tier 5 (Temporary Worker) Migrant, for “245ZR” substitute “245ZS”.
2. For paragraphs 6A and 6B, substitute:

“6A. For the purpose of these Rules, a person (P) is not to be regarded as having (or potentially having) recourse to public funds merely because P is (or will be) reliant in whole or in part on public funds provided to P’s sponsor unless, as a result of P’s presence in the United Kingdom, the sponsor is (or would be) entitled to increased or additional public funds (save where such entitlement to increased or additional public funds is by virtue of P and the sponsor’s joint entitlement to benefits under the regulations referred to in paragraph 6B).

6B. Subject to paragraph 6C, a person (P) shall not be regarded as having recourse to public funds if P is entitled to benefits specified under section 115 of the Immigration and Asylum Act 1999 by virtue of regulations made under sub-sections (3) and (4) of that section or section 42 of the Tax Credits Act 2002.

6C. A person (P) making an application from outside the United Kingdom will be regarded as having recourse to public funds where P relies upon the future entitlement to any public funds that would be payable to P or to P’s sponsor as a result of P’s presence in the United Kingdom, (including those benefits to which P or the sponsor would be entitled as a result of P’s presence in the United Kingdom under the regulations referred to in to paragraph 6B).”.
3. Delete paragraphs 33E and 33F.
4. In paragraph 34B(i)(a), delete “or as a Tier 1 Migrant or Tier 2 Migrant, other than an application for limited leave to remain as a Tier 1 (Post-Study Work) Migrant”.

5. After paragraph 34B(i)(a) insert:
“(ba) limited or indefinite leave to remain as a Tier 1 (Investor) Migrant or Tier 1 (Entrepreneur) Migrant.”.
6. Delete paragraph 34B(i)(f).
7. In paragraph 40, for “A visitor seeking leave to enter for the purposes of marriage must meet the requirements of paragraph 56D.” substitute “A visitor seeking leave to enter for the purpose of marriage or to enter into a civil partnership must meet the requirements of paragraph 56D.”.
8. In paragraph 41(i), after “not exceeding 6 months” insert:
“or not exceeding 12 months in the case of a person seeking entry to accompany an academic visitor, provided in the latter case the visitor accompanying the academic visitor has entry clearance”.
9. In paragraph 42 after “not exceeding 6 months” insert:
“or not exceeding 12 months in the case of a person accompanying an academic visitor”.
10. In paragraph 44 (ii) after “more than 6 months in total in the United Kingdom” insert:
“or not more than 12 months in the case of a person accompanying an academic visitor”.
11. For paragraph 46A (i) substitute:
“(i) is genuinely seeking entry as a child visitor for a limited period as stated by him not exceeding 6 months or not exceeding 12 months to accompany an academic visitor, provided in the latter case the child visitor has entry clearance”.
12. For paragraph 46A (ii) substitute:
“(ii) meets the requirements of paragraph 41 (ii) – (iv), (vi) – (vii) and (x)- (xii)”.
13. In paragraph 46A (vii), for “an organisation which is included on the Register of Education and Training Providers,” substitute:
“an institution which is:
 - i) the holder of a Sponsor Licence for Tier 4 of the Points Based System, or
 - ii) accredited by a United Kingdom Border Agency approved accreditation body, or
 - iii) an independent fee paying school registered with the Department for Children, Schools and Families”.
14. In paragraph 46B, after “not exceeding 6 months” insert “or not exceeding 12 months in the case of a child visitor accompanying an academic visitor”.
15. For paragraph 46D (i) substitute:
“(i) meets the requirements of paragraph 41 (ii)- (vii) and (x)- (xii)”.
16. In paragraph 46D (v), after “more than 6 months in total in the United Kingdom” insert “or not more than 12 months in total in the case of a child visitor accompanying an academic visitor”.
17. For paragraph 46G (iii)(f) substitute:
(f) To be a secondee to a UK company which is directly contracted with the visitor’s overseas company, with which it has no corporate relationship, to provide goods or services, provided the secondee remains employed and paid by the overseas company throughout the secondee’s visit.”.
18. For paragraph 46G (iii)(h) substitute:
“(h) To act as an adviser, consultant, trainer or trouble shooter, to the UK branch of the same group of companies as the visitor’s overseas company, provided the visitor remains employed and paid by the overseas company and does not undertake work, paid or unpaid with the UK company’s clients.”.
19. For paragraph 46 (iii)(i) substitute:
“(i) Specific, one-off training on techniques and work practices used in the UK where:
 - a. the training is to be delivered by the UK branch of the same group of companies to which the individual’s employer belongs; or
 - b. the training is to be provided by a UK company contracted to provide goods or services to the overseas company; or
 - c. a UK company is contracted to provide training facilities only, to an overseas company”.
20. In paragraph 56A (i), after “paragraph” insert “41”.
21. For the headings above paragraph 56D substitute:
**“Visitors seeking to enter for the purposes of marriage or to enter into a civil partnership
Requirements for leave to enter as a visitor for marriage or to enter into a civil partnership”.**

22. In paragraph 56D (iii) delete “ceremony”.
23. In paragraph 56D (i) after “paragraph 41” delete “for entry as a general visitor” and insert “(i) – (ix) and (xi)- (xii)”.
24. After paragraph 56K (ix) insert:
“(x) meets the requirements set out in paragraph 41 (ix) – (xii)”.
25. In paragraph 56K(ii), for “an organisation which is included on the Register of Education and Training Providers” substitute:
“ an institution which is:
 - i) the holder of a Sponsor Licence for Tier 4 of the Points Based System, or
 - ii) accredited by a UKBA approved accreditation body, or
 - iii) an overseas Higher Education Institution offering only part of their programmes in the United Kingdom , holding their own national accreditation and offering programmes that are of an equivalent level to a United Kingdom degree”.
26. For paragraph 56A(ii) substitute:
“(ii) (1) if the child has leave under paragraphs 57 to 62 of these Rules, the child is attending an independent fee paying day school and meets the requirements set out in paragraph 57(i) to (ix), or
(2) if the child is a Tier 4 (Child) Student, the child is attending an independent fee paying day school and meets the requirements set out in paragraph 245ZZA (if seeking leave to enter) or 245ZZC (if seeking leave to remain); and”.
27. Delete paragraphs:
 - (a) 57 to 62,
 - (b) 63 to 69,
 - (c) 69A to 69F,
 - (d) 69G to 69L,
 - (e) 70 to 75,
 - (f) 87A to 87F, and
 - (g) 135I to 135N.
28. For paragraphs 75A(iv) substitute:
“(iv) intends to leave the United Kingdom at the end of the leave granted under this paragraph unless he is successful in the PLAB Test and granted leave to remain to undertake a clinical attachment in accordance with paragraphs 75G to 75M of these Rules.”.
29. For paragraph 75D(iv) substitute:
“(iv) intends to leave the United Kingdom at the end of the leave granted under this paragraph unless he is successful in the PLAB Test and granted leave to remain to undertake a clinical attachment in accordance with paragraphs 75G to 75M of these Rules; and”.
30. For paragraph 75G(iv) substitute:
“(iv) intends to leave the United Kingdom at the end of the leave granted under this paragraph;”.
31. For paragraph 75K(iv) substitute:
“(iv) intends to leave the United Kingdom at the end of the leave granted under this paragraph; and”.
32. For the heading “Spouses of students or civil partners of prospective students” above paragraph 76, substitute “Spouses or civil partners of students or prospective students granted leave under this part of the Rules”.
33. In the heading “Children of students or prospective students” above paragraph 79, after “prospective students” insert “granted leave under this part of the Rules”.
34. At the end of paragraph 79(iv), delete “and”.
35. At the end of paragraph 79(v), for “.” substitute “, and”.
36. After paragraph 79(v) insert:
“(vi) meets the requirements of paragraph 79A.”.
37. After paragraph 79, insert:
“79A. 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, unless:
 - (i) The student or prospective student is the applicant’s sole surviving parent, or

- (ii) The student or prospective student parent has and has had sole responsibility for the applicant's upbringing, or
- (iii) there are serious or compelling family or other considerations which would make it desirable not to refuse the application and suitable arrangements have been made in the UK for the applicant's care.”
38. In paragraph 82(i)(a), for “paragraphs 60 to 67 of these Rules; or” substitute “paragraph 245ZX or paragraph 245ZZC; and”.
 39. Delete paragraph 82(i)(b).
 40. In paragraph 82(ii)(a), for “paragraphs 60 to 67 of these Rules; or” substitute “paragraph 245ZX or paragraph 245ZZC; and”.
 41. Delete paragraph 82(ii)(b).
 42. In paragraph 245C(f)(xvii) delete “or”.
 43. At the end of paragraph 245C(f)(xviii), for “.” substitute “, or”.
 44. After paragraph 245C(f)(xviii) insert:
“(xix) as a Tier 4 Migrant.”
 45. In paragraph 245C(g), for “An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist and Student Nurse, Student Re-Sitting an Examination, or as a Student Writing-Up a Thesis.” substitute:
“An applicant who has, or was last granted, leave as a Student, Postgraduate Doctor or Dentist, Student Nurse, Student Re-Sitting an Examination, Student Writing-Up a Thesis or as a Tier 4 Migrant and:”.
 46. In each of paragraphs 245E(b), 245N(c) and 245U(b), after “and the rest may be made up of leave” insert “in any combination of the following categories”.
 47. At the end of paragraph 245E(b)(vi), for “.” substitute “,”.
 48. After paragraph 245E(b)(vi) insert:
“(vii) as a Tier 2 Migrant.”
 49. In paragraph 245J(e), for “or as a Student Re-Sitting an Examination” substitute:
“, a Student Re-Sitting an Examination or as a Tier 4 Migrant”.
 50. In paragraph 245L(e)(xviii) delete “or”.
 51. At the end of paragraph 245L(e)(xix), for “.” substitute “, or”.
 52. After paragraph 245L(e)(xix) insert:
“(xx) as a Tier 4 Migrant.”
 53. In paragraph 245L(f), for “or as a Student Writing-Up a Thesis” substitute:
“, a Student Writing-Up a Thesis or as a Tier 4 Migrant”.
 54. In paragraph 245Q(c), for “or as a Student Re-Sitting an Examination or a Student Writing up a Thesis” substitute:
“, a Student Re-Sitting an Examination, a Student Writing-Up a Thesis or as a Tier 4 Migrant”.
 55. In paragraph 245S(c)(xiv) delete “or”.
 56. At the end of paragraph 245S(c)(xv), for “.” substitute “, or”.
 57. After paragraph 245S(c)(xv) insert:
“(xvi) as a Tier 4 Migrant.”
 58. In paragraph 245S(d), for “or Student Writing-Up a Thesis” substitute:
“, Student Writing-Up a Thesis or as a Tier 4 Migrant”.
 59. In paragraph 245Z(f)(iii), after “Student” insert “, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above”.
 60. In paragraph 245Z(f)(iv), after “Student Nurse” insert “, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above”.
 61. In paragraph 245Z(f)(v), after “Student Re-Sitting an Examination” insert “, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above”.
 62. In paragraph 245Z(f)(v) delete “or”.
 63. In paragraph 245Z(f)(vi), after “Student Writing Up a Thesis” insert “, 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”.
 64. At the end of paragraph 245Z(f)(vi), for “.” substitute “, or”.

65. After paragraph 245Z(f)(vi) insert:
“(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.”.
66. In each of paragraphs 245ZD(g) and 245ZF(d), for “or a Postgraduate Doctor or Dentist” substitute:
“; a Postgraduate Doctor or Dentist or a Tier 4 Migrant”.
67. In paragraph 245ZF(c)(xvii) delete “or”.
68. At the end of paragraph 245ZF(c)(xviii), for “.” substitute “;”.
69. After paragraph 245ZF(c)(xviii) insert:
“(xix) as a Tier 4 Migrant, or
(xx) as a Tier 5 (Temporary Worker) Migrant.”
70. In paragraph 245ZF(d), after “leave as” insert “a Tier 4 Migrant.”.
71. After paragraph 245ZF(d) insert:
“(da) (i) An applicant who was last granted leave as a Tier 5 (Temporary Worker) Migrant must have been granted such leave in either the Government Authorised Exchange sub-category or the Creative and Sporting sub-category of Tier 5.
(ii) If the applicant was last granted leave in the Government Authorised Exchange sub-category:
(1) that leave must have been granted in order to allow the applicant to work as an overseas qualified nurse or midwife, and
(2) the applicant must have completed their registration with the Nursing and Midwifery Council
and the applicant must provide the specified documents to show that the requirements in paragraph (ii)(1) and (2) have been met.
(iii) If the applicant was last granted leave in the Creative and Sporting sub-category, that leave must have been granted in order to allow the applicant to work as a professional footballer and the applicant must provide the specified documents to show that this requirement has been met.”.
72. For paragraph 245ZG(a), substitute:
“(a) In the cases set out in paragraph (b), leave to remain will be granted for:
(i) subject to paragraph (ii), a period equal to 5 years less X, where X is the period of time, beginning with the date on which the applicant was last granted entry clearance or leave to enter, that the applicant has already spent in the UK with entry clearance, leave to enter or remain in any combination of the categories set out in paragraph (b),
(ii) where the calculation in paragraph (1) would lead to a period of leave of less than 2 years or a period of leave longer than the length of the period of engagement plus 14 days, a period equal to:
(1) the length of the period of engagement plus 14 days, or
(2) 2 years.
whichever is the shorter”.
73. In paragraph 245ZG(b), for “the applicant has, or,” substitute “the applicant has not already spent a period greater than 5 years in the UK since the applicant”.
74. In paragraph 245ZG(b)(vii)(1), delete “and received his last grant of entry clearance or leave to enter in that category less than 5 years prior to this application for leave to remain”.
75. At the end of paragraph 245ZG(b)(viii)(1) insert “and”.
76. At the end of paragraph 245ZG(b)(viii)(2), for “; and” substitute “.”.
77. Delete paragraph 245ZG(b)(viii)(3).
78. In paragraph 245ZG(c)(iii), after “the same employer” insert “doing the same job”.
79. In paragraph 245ZH(b), after “and the rest may be made up of leave” insert “in any combination of the following categories”.
80. In each of paragraphs 245ZM(b), 245ZO(b) and 2457Q(c), for “111” substitute “112”.
81. In paragraph 245ZM(b), for “245ZR” substitute “245ZS”.
82. After paragraph 245ZR, insert:
“245ZS. Requirements for indefinite leave to remain

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal and must not be an illegal entrant.
 - (b) The applicant must have spent a continuous period of 5 years lawfully in the UK with leave in the international agreement sub-category of Tier 5 and working as a private servant in a diplomatic household.
 - (c) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33D of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.”.
83. In each of paragraphs 245E, 245N, 245U and 245ZH after “the application will be refused” insert “.” and delete “, unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules.”.
84. In each of paragraphs 245E(d), 245N(d), 245U(d) and 245ZH(e), for “33F” substitute “33D”.
85. After paragraph 245ZS insert:

“TIER 4 (GENERAL) STUDENT

245ZT. Purpose of this route

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

245ZU. Entry clearance

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

245ZV. Requirements for entry clearance

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

Requirements:

- (a) The applicant must not fall for refusal under the General Grounds for Refusal.
- (b) The applicant must have a minimum of 30 points under paragraphs 113 to 119 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 10 to 13 of Appendix C.
- (d) If the applicant wishes to undertake:
 - (i) postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 to these Rules, or
 - (ii) postgraduate studies leading to a taught Masters degree in one of the disciplines listed in paragraph 2 of Appendix 6 to these Rules, or
 - (iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at an institution of higher education where this forms part of an overseas postgraduate qualification

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

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

- (i) the applicant must have successfully completed a recognised UK degree in medicine or dentistry from:
 - (1) an institution with a Tier 4 General Sponsor Licence,
 - (2) a UK publicly funded institution of further or higher education or
 - (3) a UK bona fide private education institution which maintains satisfactory records of enrolment and attendance,
- (ii) the applicant must have previously been granted leave:
 - (1) as a Tier 4 (General) Student, or as a Student, for the final academic year of the studies referred to in paragraph (i) above, and
 - (2) as a Tier 4 (General) Student, or as a Student, for at least one other academic year (aside from the final year) of the studies referred to in paragraph (i) above,

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

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

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

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

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

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

245ZW. Period and conditions of grant

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

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

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

Notes

- (i) If the grant of entry clearance is made less than 1 month or, in the case of a course of less than 6 months that is not a pre-sessional course, less than 7 days before the start of the course, entry clearance will be granted with immediate effect.
- (ii) A pre-sessional course is a course which prepares a student for the student's main course of study in the UK.

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

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules,
- (iii) no employment except:
 - (1) employment during term time of no more than 20 hours per week,
 - (2) employment (of any duration) during vacations,
 - (3) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spends on that placement does not exceed half of the total length of the course undertaken in the UK,
 - (4) employment as a Student Union Sabbatical Officer, for up to 2 years, provided the post is elective and is at the institution which is the applicant's Sponsor.

(5) employment as a postgraduate doctor or dentist on a recognised Foundation Programme provided that the migrant is not self employed, or employed as a Doctor in Training other than a vacancy on a recognised Foundation Programme, professional sportsperson (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a full time vacancy other than a vacancy on a recognised Foundation Programme.

245ZX. Requirements for leave to remain

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

Requirements:

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

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

- (i) as a Tier 4 (General) Student,
- (ii) as a Tier 4 (Child) Student,
- (iii) as a Tier 1 (Post-study Work) Migrant,
- (iv) as a Tier 2 Migrant,
- (v) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
- (vi) as a Participant in the Fresh Talent: Working in Scotland Scheme,
- (vii) as a Postgraduate Doctor or Dentist,
- (viii) as a Prospective Student,
- (ix) as a Student,
- (x) as a Student Nurse,
- (xi) as a Student Re-sitting an Examination,
- (xii) as a Student Writing Up a Thesis,
- (xiii) as a Student Union Sabbatical Officer, or
- (xiv) as a Work Permit Holder.

(c) The applicant must have a minimum of 30 points under paragraphs 113 to 119 of Appendix A.

(d) The applicant must have a minimum of 10 points under paragraphs 10 to 13 of Appendix C.

(e) If the applicant wishes to undertake:

- (i) postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 to these Rules, or
- (ii) postgraduate studies leading to a taught Masters degree in one of the disciplines listed in paragraph 2 of Appendix 6 to these Rules, or
- (iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at a publicly funded institution of higher education where this forms part of an overseas postgraduate qualification

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

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

- (i) the applicant must have successfully completed a recognised UK degree in medicine or dentistry from:
 - (1) an institution with a Tier 4 General Sponsor Licence,
 - (2) a UK publicly funded institution of further or higher education or
 - (3) a UK bona fide private education institution which maintains satisfactory records of enrolment and attendance,
- (ii) the applicant must have previously been granted leave:
 - (1) as a Tier 4 (General) Student, or as a Student, for the final academic year of the studies referred to in paragraph (i) above, and
 - (2) as a Tier 4 (General) Student, or as a Student, for at least one other academic year (aside from the final year) of the studies referred to in paragraph (i) above,

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

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

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

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

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

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

(l) The applicant must not be applying for leave to remain for the purpose of studies which would commence more than one month after the applicant's current entry clearance or leave to remain expires.

245ZY. Period and conditions of grant

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

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

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

Notes

- (i) If the grant of leave to remain is being made less than 1 month or, in the case of a course of less than 6 months that is not a pre-sessional course, less than 7 days before the start of the course, leave to remain will be granted with immediate effect.
- (ii) A pre-sessional course is a course which prepares a student for the student's main course of study in the UK.

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

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules,
- (iii) no employment except:
 - (1) employment during term time of no more than 20 hours per week,
 - (2) employment (of any duration)during vacations,
 - (3) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spends on that placement does not exceed half of the total length of the course undertaken in the UK,

(4) employment as a Student Union Sabbatical Officer for up to 2 years provided the post is elective and is at the institution which is the applicant's Sponsor.

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

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

TIER 4 (CHILD) STUDENT

245ZZ. Purpose of route

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

245ZZA. Entry clearance

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) The applicant must have a minimum of 30 points under paragraphs 120 to 125 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 14 to 18 of Appendix C.
- (d) The applicant must be at least 4 years old and under the age of 18.
- (e) The applicant must have no children under the age of 18 who are either living with the applicant or for whom the applicant is financially responsible.
- (f) If a foster carer or a relative (not a parent or guardian) of the applicant will be responsible for the care of the applicant:
 - (i) the arrangements for the care of the applicant by the foster carer or relative must meet the requirements laid down in guidance published by the United Kingdom Border Agency and the applicant must provide the specified documents to show that this requirement has been met, and
 - (ii) the applicant must provide details of the care arrangements as specified in guidance published by the United Kingdom Border Agency.
- (g) The application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.
- (h) The applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

245ZZB. Period and conditions of grant

- (a) Where the applicant is under the age of 16, entry clearance will be granted for:
 - (i) a period of no more than 1 month before the course starts, plus
 - (ii) a period:
 - (1) requested by the applicant,
 - (2) equal to the length of the programme the applicant is following, or
 - (3) of 6 yearswhichever is the shorter, plus
 - (iii) 4 months.
- (b) Where the applicant is aged 16 or over, entry clearance will be granted for:
 - (i) a period of no more than 1 month before the course starts, plus
 - (ii) a period:
 - (1) requested by the applicant,
 - (2) equal to the length of the programme the applicant is following, or
 - (3) of 2 yearswhichever is the shorter, plus
 - (iii) 4 months.

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

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules,
- (iii) no employment whilst the migrant is aged under 16,
- (iv) no employment whilst the migrant is aged 16 or over except:
 - (1) employment during term time of no more than 20 hours per week,
 - (2) employment (of any duration) during vacations,
 - (3) employment as part of a course-related work placement which forms an assessed part of the applicant's course and provided that any period that the applicant spend on that placement does not exceed half of the total length of the course undertaken in the UK,
 - (4) employment as a Student Union Sabbatical Officer for up to 2 years provided the post is elective and is at the institution which is the applicant's Sponsor

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

245ZZC. Requirements for leave to remain

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal and must not be an illegal entrant.
- (b) The applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:
 - (i) as a Tier 4 (Child) Student,
 - (ii) as a Student, or
 - (iii) as a Prospective Student.
- (c) The applicant must have a minimum of 30 points under paragraphs 120 to 125 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 14 to 18 of Appendix C.
- (e) The applicant must be under the age of 18.
- (f) The applicant must have no children under the age of 18 who are either living with the applicant or for whom the applicant is financially responsible.
- (g) If a foster carer or a relative (not a parent or guardian) will be responsible for the care of the applicant:
 - (i) the arrangements for the care of the applicant by the foster carer or relative must meet the requirements laid down in guidance published by the United Kingdom Border Agency and the applicant must provide the specified documents to show that this requirement has been met, and
 - (ii) the applicant must provide details of the care arrangements as specified in guidance published by the United Kingdom Border Agency.
- (h) The application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.
- (i) The applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.
- (j) The applicant must not be applying for leave to remain for the purpose of studies which would commence more than one month after the applicant's current entry clearance or leave to remain expires.

245ZZD. Period and conditions of grant

- (a) Where the applicant is under the age of 16, leave to remain will be granted for:
 - (i) a period of no more than 1 month before the course starts, plus
 - (ii) a period:
 - (1) requested by the applicant,
 - (2) equal to the length of the programme the applicant is following, or
 - (3) of 6 yearswhichever is the shorter, plus
 - (iii) 4 months.

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

- (i) a period of no more than 1 month before the course starts, plus
- (ii) a period:
 - (1) requested by the applicant,
 - (2) equal to the length of the programme the applicant is following, or
 - (3) of 2 yearswhichever is the shorter, plus
- (iii) 4 months.

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

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules,
- (iii) no employment whilst the migrant is aged under 16,
- (iv) no employment whilst the migrant is aged 16 or over except:
 - (1) employment during term time of no more than 20 hours per week,
 - (2) employment (of any duration) during vacations,
 - (3) employment as part of a course-related work placement which forms an assessed part of the applicant's course, and provided that any period that the applicant spend on that placement does not exceed half of the total length of the course undertaken in the UK,
 - (4) employment as a Student Union Sabbatical Officer for up to 2 years provided the post is elective and is at the institution which is the applicant's Sponsor,

provided that the migrant is not self-employed, or employed as a Doctor in Training, a professional sports person (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a full time vacancy."

86. For paragraphs 276R to 276W, substitute:

“Spouses, civil partners, unmarried or same-sex partners of persons settled or seeking settlement in the United Kingdom in accordance with paragraphs 276E to 276Q (HM Forces rules) or of members of HM Forces who are exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and have at least 5 years’ continuous service

Leave to enter or remain in the UK as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years’ continuous service

Requirements for indefinite leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement under paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years’ continuous service

276R. The requirements to be met by a person seeking indefinite leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years’ continuous service are that:

- (i) the applicant is married to, or the civil partner, unmarried or same-sex partner of, a person present and settled in the United Kingdom or who is being admitted on the same occasion for settlement in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years’ continuous service; and
- (ii) the parties to the marriage, or civil partnership or relationship akin to marriage or civil partnership have met; and
- (iii) the parties were married or formed a civil partnership or a relationship akin to marriage or civil partnership at least 2 years ago; and
- (iv) each of the parties intends to live permanently with the other as his or her spouse, civil partner, unmarried or same-sex partner and
- (v) the marriage, civil partnership or relationship akin to marriage or civil partnership is subsisting; and
- (vi) the applicant holds a valid United Kingdom entry clearance for entry in this capacity.

Indefinite leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276S. A person seeking leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service may be granted indefinite leave to enter provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival.

Refusal of indefinite leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the UK or being admitted on the same occasion for settlement in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276T. Leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service 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.

Requirement for indefinite leave to remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom under paragraphs 276E to 276Q or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276U. The requirements to be met by a person seeking indefinite leave to remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service are that:

- (i) the applicant is married to or the civil partner or unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service; and
- (ii) the parties to the marriage, civil partnership or relationship akin to marriage or civil partnership have met; and
- (iii) the parties were married or formed a civil partnership or relationship akin to marriage or civil partnership at least 2 years ago; and
- (iv) each of the parties intends to live permanently with the other as his or her spouse, civil partner, unmarried or same-sex partner; and
- (v) the marriage, civil partnership or relationship akin to marriage or civil partnership is subsisting; and
- (vi) has, or has last been granted, leave to enter or remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner.

Indefinite leave to remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276V. Indefinite leave to remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 276U is met.

Refusal of indefinite leave to remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276W. Indefinite leave to remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 276U is met. ”.

87. For paragraphs 276X to 276AC, substitute:

“Children of a parent, parents or a relative settled or seeking settlement in the United Kingdom under paragraphs 276E to 276Q (HM Forces rules) or of members of HM Forces who are exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and have at least 5 years' continuous service

Leave to enter or remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

Requirements for indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being admitted for settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276X. The requirements to be met by a person seeking indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being admitted for settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service are that:

(i) the applicant is seeking indefinite leave to enter to accompany or join a parent, parents or a relative in one of the following circumstances:

(a) both parents are present and settled in the United Kingdom; or

(b) both parents are being admitted on the same occasion for settlement; or

(c) one parent is present and settled in the United Kingdom or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and the other is being admitted on the same occasion for settlement or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service; or

(d) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and the other parent is dead; or

(e) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and has had sole responsibility for the child's upbringing; or

(f) one parent or a relative is present and settled in the United Kingdom or being admitted on the same occasion for settlement or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and

(ii) is under the age of 18; and

(iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and

(iv) holds a valid United Kingdom entry clearance for entry in this capacity.

Indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being admitted for settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276Y. Indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being admitted for settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival.

Refusal of indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being admitted for settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276Z. Indefinite leave to enter the United Kingdom as the child of a parent, parents, or a relative present and settled in the United Kingdom or being admitted for settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service 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.

Requirements for indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276AA. The requirements to be met by a person seeking indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service are that:

(i) the applicant is seeking indefinite leave to remain with a parent, parents or a relative in one of the following circumstances:

(a) both parents are present and settled in the United Kingdom or being granted settlement on the same occasion; or

(ab) one parent is present and settled in the United Kingdom or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and the other is being granted settlement on the same occasion or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service; or

(b) one parent is present and settled in the United Kingdom or being granted settlement on the same occasion or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and the other parent is dead; or

(c) one parent is present and settled in the United Kingdom or being granted settlement on the same occasion or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and has had sole responsibility for the child's upbringing; or

(d) one parent or a relative is present and settled in the United Kingdom or being granted settlement on the same occasion or is a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service and there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child's care; and

(ii) is under the age of 18; and

(iii) is not leading an independent life, is unmarried and is not a civil partner, and has not formed an independent family unit; and

(iv) has leave to enter or remain in the United Kingdom.

Indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276AB. Indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service may be granted if the Secretary of State is satisfied that each of the requirements of paragraph 276AA is met.

Refusal of indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service

276AC. Indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled in the United Kingdom or being granted settlement on the same occasion in accordance with paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 276AA is met.”.

88. For paragraphs 276AD – 276AF, substitute:

“Spouses, civil partners, unmarried or same-sex partners of armed forces members who are exempt from immigration control under section 8(4) of the Immigration Act 1971

Requirements for leave to enter or remain as the spouse, civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971

276AD. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971 are that:

- (i) the applicant is married to or the civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971; and
- (ii) each of the parties intends to live with the other as his or her spouse or civil partner, unmarried or same-sex partner during the applicant's stay and the marriage, civil partnership, or relationship akin to a marriage or civil partnership is subsisting; and
- (iii) there will be adequate accommodation for the parties and any dependants without recourse to public funds in accommodation which they own or occupy exclusively; and
- (iv) the parties will be able to maintain themselves and any dependants adequately without recourse to public funds;
- (v) the applicant does not intend to stay in the United Kingdom beyond his or her spouse's, civil partner's, unmarried or same-sex partner's enlistment in the home forces, or period of posting or training in the United Kingdom; and
- (vi) where the applicant is the unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971, the following requirements are also met:
 - (a) any previous marriage or civil partnership or relationship akin to a marriage by the applicant or the *exempt armed forces member* must have permanently broken down,
 - (b) the applicant and the *exempt armed forces member* must not be so closely related that they would be prohibited from marrying each other in the UK, and
 - (c) the applicant and the *exempt armed forces member* must have been living together in a relationship akin to marriage or civil partnership for a period of at least 2 years.

Leave to enter or remain as the spouse, civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971

276AE. A person seeking leave to enter or remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971 may be given leave to enter or remain in the United Kingdom for a period not exceeding 4 years or the expected duration of the enlistment, posting or training of his or her spouse, civil partner, unmarried or same-sex partner, whichever is shorter, provided that the Immigration Officer, or in the case of an application for leave to remain, the Secretary of State, is satisfied that each of the requirements of paragraph 276AD (i)-(vi) is met.

Refusal of leave to enter or remain as the spouse, civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971

276AF. Leave to enter or remain in the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of an armed forces member who is exempt from immigration control under section 8(4) of the Immigration Act 1971 is to be refused if the Immigration Officer, or in the case of an application for leave to remain, the Secretary of State, is not satisfied that each of the requirements of paragraph 276AD (i)-(vi) is met.”.

89. In paragraph 319AA, for “or a Tier 5 (Temporary Worker) Migrant” substitute “, a Tier 4 Migrant or a Tier 5 (Temporary Worker) Migrant”.
90. In paragraph 319C(h)(i), delete “or”.
91. At the end of paragraph 319C(h)(ii), for “.” substitute “, or”.

92. After paragraph 319C(h)(ii) insert:
“(iii) in any other category of these Rules, provided the Relevant Points Based System Migrant has, or is being granted, leave to remain as a Tier 5 (Temporary Worker) Migrant in the creative and sporting sub-category on the basis of having met the requirement at paragraph 245ZQ(b)(ii).”.
93. In paragraph 319D(b)(ii), delete “and”.
94. At the end of paragraph 319D(b)(iii), for “.” substitute “, and”.
95. After paragraph 319D(b)(iii) insert:
“(iv) if the Relevant Points Based System Migrant is a Tier 4 Migrant who was granted leave for less than 12 months, no employment.”.
96. In paragraph 319H(h)(i), delete “or”.
97. At the end of paragraph 319H(h)(ii), for “.” substitute “, or”.
98. After paragraph 319H(h)(ii) insert:
“(iii) in any other category of these Rules, provided the Relevant Points Based System Migrant has, or is being granted, leave to remain as a Tier 5 (Temporary Worker) Migrant in the creative and sporting sub-category on the basis of having met the requirement at paragraph 245ZQ(b)(ii).”.
99. In paragraph 319I(b)(i), delete “and”.
100. At the end of paragraph 319I(b)(ii), for “.” substitute “, and”.
101. After paragraph 319I(b)(ii) insert:
“(iii) if the Relevant Points Based System Migrant is a Tier 4 Migrant who was granted leave for less than 12 months, no employment.”.
102. In the heading above paragraph 323A, for “or a Tier 5 Migrant”, substitute “, a Tier 5 Migrant or a Tier 4 Migrant”.
103. In paragraph 323A(b), after “for which the migrant works” insert “or at which the migrant is studying”.
104. At the end of paragraph 323A(b)(iii) delete “or”.
105. For paragraph 323A(c) substitute:
“(c) the migrant fails to commence, or ceases, working for the Sponsor, or
(d) in the case of a Tier 4 Migrant:
(i) the migrant fails to commence studying with the Sponsor, or
(ii) the migrant studies at an institution other than that which issued the visa letter on the basis of which the migrant’s current entry clearance, leave to enter or leave to remain was granted unless the United Kingdom Border Agency has given its written consent for the migrant to transfer to another Sponsor, or
(iii) the migrant ceases studying with the Sponsor.”.
106. In the heading to Appendix 6, for “paragraph 57(v)” insert “Tier 4 of the Points Based System”.
107. After paragraph 7 of Appendix A insert:
“7A. An applicant making their first application under paragraph 245C will be awarded no points for a Bachelor’s degree.”.
108. After paragraph 8 of Appendix A insert:
“8A. An applicant making their first application under paragraph 245C will be awarded no points for previous earnings of less than £20,000.”.
109. In paragraph (b)(ii) in the first row of Table 8 in Appendix A, delete “held in a regulated financial institution”.
110. Delete paragraph 47 of Appendix A.
111. In the first row of Table 9 of Appendix A, for “a UK postgraduate certificate or diploma” substitute “a UK Postgraduate Certificate in Education”.
112. In the third row of Table 9 of Appendix A, for paragraphs (a) and (b) substitute:
“(a) as a Student or as a Tier 4 Migrant, or
(b) under Part 8 of these Rules.”.
113. For paragraph 67 of Appendix A, substitute:
“A Certificate of Sponsorship reference number will only be considered to be valid if:
(a) the Sponsor assigned that reference number to the migrant no more than 3 months before the application for entry clearance or leave to remain is made,

- (b) the application for entry clearance or leave to remain is made no more than 3 months before the start of the employment as stated on the Certificate of Sponsorship, and
- (c) that reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since it was assigned.”.
114. In paragraph 72, for the second sentence beginning “The applicant must also” substitute:
 “The applicant must also have been working for the Sponsor for a continuous period of at least 6 months immediately prior to the date of the application and must provide the specified documents to prove this. During that period the applicant must have been working for the Sponsor:
- (a) outside the UK,
- (b) in the UK, provided he had leave to work for the Sponsor as a Tier 2 (Intra-Company Transfer) Migrant and/or as a Qualifying Work Permit Holder (provided that the work permit was granted because the applicant was the subject of an intra-company transfer), or
- (c) any combination of (a) and (b) above.”.
115. For paragraph 74 of Appendix A, substitute:
 “Specified documents must be provided as evidence of the qualification.”.
116. In paragraph 77(a) of Appendix A, after “UK NARIC” insert:
 “or the appropriate UK professional body”.
117. In Table 11 of Appendix A, for the entry “Applicant was awarded points when last granted leave because the job was in shortage occupation” substitute:
 “Job is a shortage occupation, or applicant was awarded points when last granted leave because the job was in a shortage occupation”.
118. For paragraph 81 of Appendix A, substitute, “Paragraphs 63 to 68 and 70 apply.”
119. For paragraph 83(d) of Appendix A, substitute:
 “(d) the applicant’s last grant of entry clearance or leave to enter in any of the categories listed in paragraph (a)(i) to (v) above must have been less than 5 years prior to the date that their last grant of entry clearance, leave to enter or leave to remain expires.”.
120. In paragraph 109 of Appendix A, delete “The Sponsor must have been assigned a Certificate of Sponsorship reference number no more than 3 months before the application is made and the reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since then.”.
121. After paragraph 109 of Appendix A, insert:
 “109A. A Certificate of Sponsorship reference number will only be considered to be valid if:
- (a) the Sponsor assigned the reference number to the migrant no more than 3 months before the application for entry clearance or leave to remain is made,
- (b) the application for entry clearance or leave to remain is made no more than 3 months before the start date of the employment as stated on the Certificate of Sponsorship, and
- (c) that reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since it was assigned.”.
122. After paragraph 111 of Appendix A, insert:
 “112. Points will not be awarded for a Tier 5 (Temporary Worker) Certificate of Sponsorship where the claimed basis for its issuance are the provisions under Mode 4 of the General Agreement on Trade in Services relating to intra-corporate transfers.”.

Attributes for Tier 4 (General) Students

123. An applicant applying for entry clearance or leave to remain as a Tier 4 (General) Student must score 30 points for attributes.
124. Available points are shown in Table 16 below.
125. Notes to accompany Table 16 appear below that table.

Table 16

Criterion	Points awarded
Visa letter	30

Notes

126. A visa letter will only be considered to be valid if:
- (a) it was issued no more than 6 months before the application is made,
 - (b) the Sponsor has not withdrawn the offer since the visa letter was issued,
 - (c) the visa letter has been issued by an institution with a Tier 4 (General) Student Sponsor Licence,
 - (d) the institution must still hold such a licence at the time the application for entry clearance or leave to remain is determined, and
 - (e) it contains such information as is specified as mandatory in guidance published by the United Kingdom Border Agency.
127. In order to be awarded points for a visa letter, the applicant must supply any documentary evidence (e.g. qualification certificates or as specified in guidance published by the United Kingdom Border Agency for migrants) that the applicant used to obtain the offer of a place on a course from the Sponsor.
128. If the applicant is re-sitting examinations or repeating a module of a course, the applicant must not previously have re-sat the same examination or repeated the same module more than once. If this requirement is not met then no points will be awarded for the visa letter.
129. Points will only be awarded for a visa letter (even if all the above requirements are met) if the course in respect of which it is issued meets each of the following requirements:
- (a) The course must meet the United Kingdom Border Agency's minimum academic requirements, as set out in sponsor guidance published by the United Kingdom Border Agency, and must lead to an approved qualification as defined in that guidance,
 - (b) Other than when the applicant is actually on a work placement, all study that forms part of the course must take place on the premises of the sponsoring educational institution.
 - (c) The course must also meet one of the following requirements:
 - i. be a full time course of study that leads to a UK recognised bachelor or postgraduate degree,
 - ii. be an overseas course of degree level study that is recognised as being equivalent to a UK Higher Education course and is being provided by an overseas Higher Education Institution,
 - iii. involve a minimum of 15 hours per week organised daytime study.
 - (d) If the course contains a course-related work placement, any period that the applicant will be spending on that placement must not exceed half of the total length of the course spent in the United Kingdom.

Attributes for Tier 4 (Child) Students

130. An applicant applying for entry Clearance or leave to remain as a Tier 4 (Child) Student must score 30 points for attributes.
131. Available points are show in Table 17 below.
132. Notes to accompany Table 17 appear below that table.

Table 17

Criterion	Points awarded
Visa letter	30

Notes

133. A visa letter will be considered to be valid only if:
- (a) where the applicant is under 16, it was issued by an independent, fee paying school,
 - (b) it was issued no more than 6 months before the application is made,
 - (c) the Sponsor has not withdrawn the offer since the visa letter was issued,
 - (d) it was issued by an institution with a Tier 4 (Child) Student Sponsor Licence, and
 - (e) the institution must still hold such a licence at the time the application for entry clearance or leave to remain is determined.
134. The visa letter must also contain such information as is specified as mandatory by guidance published by the United Kingdom Border Agency.
135. Points will not be awarded under Table 17 unless the course that the student will be pursuing meets one of the following requirements:

- (a) be taught in accordance with the National Curriculum,
 - (b) be taught in accordance with the National Qualification Framework (NQF),
 - (c) be accepted as being of equivalent academic status to (a) or (b) above by Ofsted (England), the Education and Training Inspectorate (Northern Ireland), Her Majesty’s Inspectorate of Education (Scotland) or Estyn (Wales),
 - (d) be provided as required by prevailing independent school education inspection standards.”.
136. In paragraph 5(a) of Appendix C, after “specified documents” insert “, or”.
137. In paragraph 5(b) of Appendix C, delete “, or was last granted,”.
138. In paragraph 5(d) of Appendix C, after “employment.” “The Sponsor may limit the amount of the undertaking but any limit must be at least £800.”
139. In Appendix C, after the table below paragraph 9 insert:

“Tier 4 (General) Students

10. A Tier 4 (General) Student must score 10 points for funds.

11. 10 points will only be awarded if the funds shown in the table below are available to the applicant and the applicant provides the specified documents to show this. Notes to accompany the table appear below the table:

Criterion	Points
<p>If studying in London:</p> <p>(i) Where the applicant is making his or her first entry clearance application under Tier 4, or is switching from another category of stay, or is seeking an extension of stay following completion of a course of study of less than six months (including a pre-sessional course), the full cost of the fees of the course (first year only if the course is longer) must be available to the applicant, together with £800 for each month of the course, up to a maximum of 9 months. For example, for a course lasting 12 months or more, the applicant must show that the course fees for the first year of the course plus £7200 are available.</p> <p>(ii) Where the applicant is making a subsequent entry clearance application, or is extending leave previously granted under Tier 4 or under Part 3 of these Rules, except where they are applying for an extension of stay following completion of a course of study of less than six months (including a pre-sessional course) provided the previous course was completed within the previous 4 months, the full cost of fees for the first year of their continued study is available to the applicant, together with 2 months’ maintenance of £800 per month (£1600). For example, for a continued study lasting 12 months or more, the applicant must show that the course fees for the first year of the plus £1600 are available.</p>	<p>10</p>

<p>If studying outside London:</p> <p>(iii) Where the applicant is making his or her first entry clearance application under Tier 4, or is switching from another category of stay, or is seeking an extension of stay following completion of a course of study of less than six months (including a pre-sessional course) the full cost of the fees for the course (first year only if the course is longer) must be available to the applicant, together with £600 for each month of the course, up to a maximum of 9 months. For example, for a course lasting 12 months or more, the applicant must show that the course fees for the first year of the course plus £5400 are available.</p> <p>(iv) Where the applicant is making a subsequent entry clearance application, or is extending leave previously granted under Tier 4 or under Part 3 of these Rules, except where they are applying for an extension of stay following completion of a course of study of less than six months (including a pre-sessional course), provided the previous study was completed within the previous 4 months, the full cost of fees for their continued study (first year only if the course is longer) must be available to the applicant, together with 2 months' maintenance of £600 per month. For example, where the continued study will last 12 months or more, the applicant must show that the course fees for one year of the course plus £1200 are available.</p>	10
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Notes

12. An applicant will be considered to be studying in London if the institution, or branch of the institution, at which the applicant will be studying is situated in a London Borough specified in United Kingdom Border Agency guidance. If the applicant will be studying at more than one site, one or more of which is in London and one or more outside, then the applicant will be considered to be studying in London if the applicant's visa letter states that the applicant will be spending the majority of time studying at a site or sites situated in London.

13. Guidance published by the United Kingdom Border Agency will set out when funds will be considered to be available to an applicant, including the circumstances in which the money must be that of the applicant and the extent to which a sponsorship arrangement that provides the required funds will suffice.

Tier 4 (Child) Students

14. A Tier 4 (Child) Student must score 10 points for funds.

15. 10 points will only be awarded if the funds shown in the table below are available to the applicant, and the applicant provides the specified documents to show this. Notes to accompany the table appear below the table:

Criterion	Points
Where the child is (or will be) studying at a residential independent school- sufficient funds to pay boarding fees (being course fees plus board/lodging fees) for a year are available to the applicant.	10

<p>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 (see Notes below): sufficient funds are available to the applicant to pay school fees for a year, the foster carer or relative (who must meet such requirements as are specified in guidance published by the United Kingdom Border Agency) has undertaken to maintain and accommodate the child for the duration of the course and that foster carer or relative has funds equivalent to at least £500 per month, for up to a maximum of 9 months, to support the child while he is in the United Kingdom.</p>	10
<p>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, sufficient funds are available to the child to pay school fees for a year, plus:</p> <ul style="list-style-type: none"> • if no other children are accompanying the applicant and the parent, £1333 per month of stay up to a maximum of 9 months; • If other children are accompanying the applicant and the parent, £1333 per month, plus £533 per month for each additional child, up to a maximum of 9 months 	10
<p>Where the child is aged 16 or 17 years old and is living independently and studying in London:</p> <p>(i) Where the applicant is making his or her first entry clearance application under Tier 4, or is switching from another category of stay, or is seeking an extension of stay following completion of a course of study of less than six months (including a pre-sessional course), the full cost of the fees for the course (first year only where the course is longer) must be available to the applicant, together with £800 for each month of the course, up to a maximum of 9 months. For example, for a course lasting 12 months or more, the applicant must show that the course fees for the first year of the course plus £7200 are available.</p> <p>(ii) Where the applicant is making a subsequent entry clearance application, or is extending leave previously granted under Tier 4 or under Part 3 of these Rules, except where they are applying for an extension of stay following completion of a course of study of less than six months (including a pre-sessional course) provided the previous study was completed within the previous 4 months, the full cost of fees for their continued study (first year only where the course is longer) must be available to the applicant, together with 2 months' maintenance of £800 per month (£1600). For example, where the continued study will last 12 months or more, the applicant must show that the course fees for one year of the study plus £1600 are available.</p>	10
<p>Where the child is aged 16 or 17 years old, is living independently and studying outside of London:</p> <p>(i) Where the applicant is making his or her first entry clearance application under Tier 4, or is switching from another category of stay, or is seeking an extension of stay following completion of a course of study of less than six months (including a pre-sessional course) the full cost of the fees for the course (first year only where the course is longer) must be available to the applicant, together with £600 for each month of the course, up to a maximum of 9 months. For example, for a course lasting 12 months or more, the applicant must show that the course fees for the first year of the course plus £5400 are available.</p> <p>(ii) Where the applicant is making a subsequent entry clearance application, or is extending leave previously granted under Tier 4 or under Part 3 of these Rules, except where they are applying for an extension of stay following completion of a course of study of less than six months (including a pre-sessional course), provided the previous study was completed within the previous 4 months, the full cost of fees for their continued study (first year only if the course is longer) must be available to the applicant, together with 2 months' maintenance of £600 per month. For example, where the continued study will last 12 months or more, the applicant must show that the course fees for one year of the study plus £1200 are available.</p>	10

Notes

16. Children (under 16, or under 18 if disabled) are privately fostered when they are cared for on a full-time basis by a person or persons aged 18 or over, who are not their parents or a close relative, for a period of 28 days or more.

17. A close relative is a grandparent, brother, sister, step-parent, uncle (brother or half-brother of the child's parent) or aunt (sister or half-sister of the child's parent) who is aged 18 or over.

18. The care arrangement made for the child's care in the UK must comply with the requirements specified in guidance published by the United Kingdom Border Agency."

140. In Appendix E, for paragraph (a) substitute:

"(a) Where the application is connected to a Tier 1 Migrant (other than a Tier 1 (Investor) Migrant) who is outside the UK or who has been in the UK for a period of less than 12 months, there must be £1600 in funds."

141. In Appendix E, for paragraph (b) substitute:

"(b) Where:

- (i) paragraph (a) does not apply, and
- (ii) the application is connected to a Relevant Points Based System Migrant who is not a Tier 1 (Investor) Migrant or a Tier 4 Migrant

there must be £533 in funds."

142. In Appendix E, after paragraph (b) insert:

"(ba) (i) Where the application is connected to a Tier 4 Migrant:

- (1) if the Tier 4 Migrant is studying in London (as defined in paragraph 12 of Appendix B), there must be £533 in funds for each month for which the applicant would, if successful, be granted leave under paragraph 319D(a), up to a maximum of £ 4,797,
- (2) if the Tier 4 Migrant is not studying in London, there must be £400 in funds for each month for which the applicant would, if successful, be granted leave under paragraph 319D(a), up to a maximum of £3,600."

143. In Appendix E, after paragraph (ea) insert:

"(eb) In the following cases, sufficient funds will be deemed to be available where all of the following conditions are met:

- (i) the Relevant Points Based System Migrant to whom the application is connected has, or is being granted, leave as a Tier 2 Migrant,
- (ii) the Sponsor of that Relevant Points Based System Migrant is A-rated, and
- (iii) that Sponsor provides a written undertaking that, should it become necessary, it will maintain and accommodate the dependants of the Relevant Points Based System Migrant up to the end of the first month of the Relevant Points Based System Migrant's employment. The undertaking may be limited provided the limit is at least £533 per dependant."

144. At the end of Appendix F insert:

"Immigration rules as at 30 March 2009 relating to Students, Student Nurses, Students Re-sitting an Examination, Students Writing Up a Thesis, Postgraduate Doctors or Dentists, Sabbatical Officers and applicants under the Sectors-Based Scheme

Specified forms and procedures for applications or claims in connection with immigration

34B. Where an application form is specified, it must be sent by prepaid post to the *United Kingdom Border Agency* of the Home Office, or submitted in person at a public enquiry office of the *United Kingdom Border Agency* of the Home Office, save for the following exceptions:

(i) an application may not be submitted at a public enquiry office of the *United Kingdom Border Agency* of the Home Office if it is an application for:

(f) *limited leave to remain as a Tier 5 (Temporary Worker) Migrant.*

Requirements for leave to enter as a student

57. The requirements to be met by a person seeking leave to enter the United Kingdom as a student are that he:

(i) has been accepted for a course of study, or a period of research, which is to be provided by or undertaken at an organisation which is included on the Register of Education and Training Providers, and is at either;

(a) a publicly funded institution of further or higher education which maintains satisfactory records of enrolment and attendance of students and supplies these to the United Kingdom Border Agency when requested; or

(b) a bona fide private education institution; or

(c) an independent fee paying school outside the maintained sector which maintains satisfactory records of enrolment and attendance of students and supplies these to the United Kingdom Border Agency when requested; and

(ii) is able and intends to follow either:

(a) a recognised full-time degree course or postgraduate studies at a publicly funded institution of further or higher education; or

(b) a period of study and/or research in excess of 6 months at a publicly funded institution of higher education where this forms part of an overseas degree course; or

(c) a weekday full-time course involving attendance at a single institution for a minimum of 15 hours organised daytime study per week of a single subject, or directly related subjects; or

(d) a full-time course of study at an independent fee paying school; and

(iii) if under the age of 16 years is enrolled at an independent fee paying school on a full time course of studies which meets the requirements of the Education Act 1944; and

(iv) if he has been accepted to study externally for a degree at a private education institution, he is also registered as an external student with the UK degree awarding body; and

(v) he holds a valid Academic Technology Approval Scheme (ATAS) clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office which relates to the course, or area of research, he intends to undertake and the institution at which he wishes to undertake it; if he intends to undertake either,

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

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

(iii) a period of study or research, as described in paragraph 57(ii)(b), in one of the disciplines listed in paragraph 1 or 2 of Appendix 6 to these Rules, that forms part of an overseas postgraduate qualification; and

(vi) intends to leave the United Kingdom at the end of his studies; and

(vii) does not intend to engage in business or to take employment, except part-time or vacation work undertaken with the consent of the Secretary of State; and

(viii) is able to meet the costs of his course and accommodation and the maintenance of himself and any dependants without taking employment or engaging in business or having recourse to public funds; and

(ix) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a student

58. A person seeking leave to enter the United Kingdom as a student may be admitted for an appropriate period depending on the length of his course of study and his means, and with a condition restricting his freedom to take employment, provided he is able to produce to the Immigration Officer on arrival a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a student

59. Leave to enter as a student is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 57 is met.

Requirements for an extension of stay as a student

60. The requirements for an extension of stay as a student are that the applicant:

(i)(a) was last admitted to the United Kingdom in possession of a valid student entry clearance in accordance with paragraphs 57- 62 or valid prospective student entry clearance in accordance with paragraphs 82 – 87 of these Rules; or

(b) has previously been granted leave to enter or remain in the United Kingdom to re-sit an examination in accordance with paragraphs 69A-69F of these Rules; or

(c) if he has been accepted on a course of study at degree level or above, has previously been granted leave to enter or remain in the United Kingdom in accordance with paragraphs 87A-87F, 128-135, 135O-135T and 143A to 143F or 245V to 245ZA of these Rules; or

(d) has valid leave as a student in accordance with paragraphs 57-62 of these Rules; and

(ii) meets the requirements for admission as a student set out in paragraph 57 (i) – (viii); and

(iii) has produced evidence of his enrolment on a course which meets the requirements of paragraph 57; and

(iv) can produce satisfactory evidence of regular attendance during any course which he has already begun; or any other course for which he has been enrolled in the past; and

(v) can show evidence of satisfactory progress in his course of study including the taking and passing of any relevant examinations; and

(vi) would not, as a result of an extension of stay, spend more than 2 years on short courses below degree level (ie courses of less than 1 years duration, or longer courses broken off before completion); and

(vii) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor for a further period of study in the United Kingdom and satisfactory evidence that sufficient sponsorship funding is available.

Extension of stay as a student

61. An extension of stay as a student may be granted, subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 60.

Refusal of extension of stay as a student

62. An extension of stay as a student is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 60 is met.

Student nurses

Definition of student nurse

63. For the purposes of these Rules the term student nurse means a person accepted for training as a student nurse or midwife leading to a registered nursing qualification.

Requirements for leave to enter as a student nurse

64. The requirements to be met by a person seeking leave to enter the United Kingdom as a student nurse are that the person:

(i) comes within the definition set out in paragraph 63 above; and

(ii) has been accepted for a course of study in a recognised nursing educational establishment offering nursing training which meets the requirements of the Nursing and Midwifery Council.

(iii) did not obtain acceptance on the course of study referred to in (ii) above by misrepresentation;

(iv) is able and intends to follow the course; and

(v) does not intend to engage in business or take employment except in connection with the training course; and

(vi) intends to leave the United Kingdom at the end of the course; and

(vii) has sufficient funds available for accommodation and maintenance for himself and any dependants without engaging in business or taking employment (except in connection with the training course) or having recourse to public funds. The possession of a Department of Health bursary may be taken into account in assessing whether the student meets the maintenance requirement.

Leave to enter the United Kingdom as a student nurse

65. A person seeking leave to enter the United Kingdom as a student nurse may be admitted for the duration of the course, with a restriction on his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 64 is met.

Refusal of leave to enter as a student nurse

66. Leave to enter as a student nurse is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 64 is met.

Requirements for an extension of stay as a student nurse

67. The requirements for an extension of stay as a student nurse are that the applicant:

(i) was last admitted to the United Kingdom in possession of a valid student entry clearance, or valid prospective student entry clearance in accordance with paragraphs 82 to 87 of these Rules, if he is a person specified in Appendix 1 to these Rules; and

(ii) meets the requirements set out in paragraph 64 (i)-(vii); and

(iii) has produced evidence of enrolment at a recognised nursing educational establishment; and

(iv) can provide satisfactory evidence of regular attendance during any course which he has already begun; or any other course for which he has been enrolled in the past; and

(v) would not, as a result of an extension of stay, spend more than 4 years in obtaining the relevant qualification; and

(vi) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor for a further period of study in the United Kingdom and evidence that sufficient sponsorship funding is available.

Extension of stay as a student nurse

68. An extension of stay as a student nurse may be granted, subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 67.

Refusal of extension of stay as a student nurse

69. An extension of stay as a student nurse is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 67 is met.

Re-sits of examinations

Requirements for leave to enter to re-sit an examination

69A. The requirements to be met by a person seeking leave to enter the United Kingdom in order to re-sit an examination are that the applicant:

- (i) (a) meets the requirements for admission as a student set out in paragraph 57(i)-(viii); or
 - (b) met the requirements for admission as a student set out in paragraph 57 (i)-(iii) in the previous academic year and continues to meet the requirements of paragraph 57 (iv)-(viii)
- save, for the purpose of paragraphs (i) (a) or (b) above, where leave was last granted in accordance with paragraphs 57 – 62 of these Rules before 30 November 2007, the requirements of paragraph 57(v) do not apply; and
- (ii) has produced written confirmation from the education institution or independent fee paying school which he attends or attended in the previous academic year that he is required to re-sit an examination; and
 - (iii) can provide satisfactory evidence of regular attendance during any course which he has already begun; or any other course for which he has been enrolled in the past; and
 - (iv) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor for a further period of study in the United Kingdom and satisfactory evidence that sufficient sponsorship funding is available; and
 - (v) has not previously been granted leave to re-sit the examination.

Leave to enter to re-sit an examination

69B. A person seeking leave to enter the United Kingdom in order to re-sit an examination may be admitted for a period sufficient to enable him to re-sit the examination at the first available opportunity with a condition restricting his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 69A is met.

Refusal of leave to enter to re-sit an examination

69C. Leave to enter to re-sit an examination is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 69A is met.

Requirements for an extension of stay to re-sit an examination

69D. The requirements for an extension of stay to re-sit an examination are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he was then a visa national; and
- (ii) meets the requirements set out in paragraph 69A (i)-(v).

Extension of stay to re-sit an examination

69E. An extension of stay to re-sit an examination may be granted for a period sufficient to enable the applicant to re-sit the examination at the first available opportunity, subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 69D.

Refusal of extension of stay to re-sit an examination

69F. An extension of stay to re-sit an examination is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 69D is met.

Writing up a thesis

Requirements for leave to enter to write up a thesis

69G. The requirements to be met by a person seeking leave to enter the United Kingdom in order to write up a thesis are that the applicant:

- (i) (a) meets the requirements for admission as a student set out in paragraph 57(i)-(viii); or
 - (b) met the requirements for admission as a student set out in paragraph 57 (i)-(iii) in the previous academic year and continues to meet the requirements of paragraph 57 (iv)-(viii)
- save, for the purpose of paragraphs (i) (a) or (b) above, where leave was last granted in accordance with paragraphs 57-62 of these Rules before 30 November 2007, the requirements of paragraph 57(v) do not apply; and
- (ii) can provide satisfactory evidence that he is a postgraduate student enrolled at an education institution as either a full time, part time or writing up student; and
 - (iii) can demonstrate that his application is supported by the education institution; and
 - (iv) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor for a further period of study in the United Kingdom and satisfactory evidence that sufficient sponsorship funding is available; and

(v) has not previously been granted 12 months leave to write up the same thesis.

Leave to enter to write up a thesis

69H. A person seeking leave to enter the United Kingdom in order to write up a thesis may be admitted for 12 months with a condition restricting his freedom to take employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 69G is met.

Refusal of leave to enter to write up a thesis

69I. Leave to enter to write up a thesis is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 69G is met.

Requirements for an extension of stay to write up a thesis

69J. The requirements for an extension of stay to write up a thesis are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he was then a visa national; and
- (ii) meets the requirements set out in paragraph 69G (i)-(v).

Extension of stay to write up a thesis

69K. An extension of stay to write up a thesis may be granted for 12 months subject to a restriction on his freedom to take employment, provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 69J.

Refusal of extension of stay to write up a thesis

69L. An extension of stay to write up a thesis is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 69J is met.

Postgraduate doctors, dentists and trainee general practitioners

Requirements for leave to enter the United Kingdom as a postgraduate doctor or dentist

70. The requirements to be met by a person seeking leave to enter the UK as a postgraduate doctor or dentist are that the applicant:

- (i) has successfully completed and obtained a recognised UK degree in medicine or dentistry from either:
 - (a) a UK publicly funded institution of further or higher education; or
 - (b) a UK bona fide private education institution which maintains satisfactory records of enrolment and attendance; and
- (ii) has previously been granted leave:
 - (a) in accordance with paragraphs 57 to 69L of these Rules for the final academic year of the studies referred to in (i) above; and
 - (b) as a student under paragraphs 57 to 62 of these Rules for at least one other academic year (aside from the final year) of the studies referred to in (i) above; and
 - (iii) holds a letter from the Postgraduate Dean confirming he has a full-time place on a recognised Foundation Programme; and
 - (iv) intends to train full time in his post on the Foundation Programme; and
 - (v) is able to maintain and accommodate himself and any dependants without recourse to public funds; and
 - (vi) intends to leave the United Kingdom if, on expiry of his leave under this paragraph, he has not been granted leave to remain in the United Kingdom as:
 - (a) a doctor or dentist undertaking a period of clinical attachment or a dental observer post in accordance with paragraphs 75G to 75M of these Rules; or
 - (b) a *Tier 2 Migrant*
 - (c) a *Tier 1 (General) Migrant* or *Tier 1 (Entrepreneur) Migrant*; and
 - (vii) if his study at medical school or dental school, or any subsequent studies he has undertaken, were sponsored by a government or international scholarship agency, he has the written consent of his sponsor to enter or remain in the United Kingdom as a postgraduate doctor or dentist; and
 - (viii) if he has not previously been granted leave in this category has completed his medical or dental degree in the 12 months preceding this application; and
 - (ix) if he has previously been granted leave as a postgraduate doctor or dentist, is not seeking leave to enter to a date beyond 3 years from that date on which he was first granted leave to enter or remain in this category; and
 - (x) holds a valid entry clearance for entry in this capacity except where 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 as a postgraduate doctor or dentist

71. Leave to enter the United Kingdom as a postgraduate doctor or dentist may be granted for the duration of the Foundation Programme, for a period not exceeding 26 months, provided the Immigration Officer is satisfied that each of the requirements of paragraph 70 is met.

Refusal of leave to enter as a postgraduate doctor or dentist

72. Leave to enter as a postgraduate doctor or dentist is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 70 is met.

Requirements for an extension of stay as a postgraduate doctor or dentist

73. The requirements to be met by a person seeking an extension of stay as a postgraduate doctor or dentist are that the applicant:

- (i) meets the requirements of paragraph 70 (i) to (vii); and
- (ii) has leave to enter or remain in the United Kingdom as either:
 - (a) a student in accordance with paragraphs 57 to 69L of these Rules; or
 - (b) as a postgraduate doctor or dentist in accordance with paragraphs 70 to 75 of these Rules; or
 - (c) as a doctor or dentist undertaking a period of clinical attachment or a dental observer post in accordance with paragraphs 75G to 75M of these Rules.
- (iii) if he has not previously been granted leave in this category, has completed his medical or dental degree in the last 12 months;
- (iv) would not, as a result of an extension of stay, remain in the United Kingdom as a postgraduate doctor or dentist to a date beyond 3 years from the date on which he was first given leave to enter or remain in this capacity.

Extension of stay as a postgraduate doctor or dentist

74. An extension of stay as a postgraduate doctor or dentist may be granted for the duration of the Foundation Programme, for a period not exceeding 3 years, provided the Secretary of State is satisfied that each of the requirements of paragraph 73 is met.

Refusal of an extension of stay as a postgraduate doctor or dentist

75. An extension of stay as a postgraduate doctor or dentist is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 73 is met.

Requirements for leave to enter the United Kingdom to take the PLAB Test

75A. The requirements to be met by a person seeking leave to enter in order to take the PLAB Test are that the applicant:

- (i) is a graduate from a medical school and intends to take the PLAB Test in the United Kingdom; and
- (ii) can provide documentary evidence of a confirmed test date or of his eligibility to take the PLAB Test; and
- (iii) meets the requirements of paragraph 41 (iii) – (vii) for entry as a visitor; and
- (iv) intends to leave the United Kingdom at the end of his leave granted under this paragraph unless he is successful in the PLAB Test and granted leave to remain:
 - (a) as a postgraduate doctor or trainee general practitioner in accordance with paragraphs 70 to 75; or
 - (b) to undertake a clinical attachment in accordance with paragraphs 75G to 75M of these Rules; or

Leave to enter to take the PLAB Test

75B. A person seeking leave to enter the United Kingdom to take the PLAB Test may be admitted for a period not exceeding 6 months, provided the Immigration Officer is satisfied that each of the requirements of paragraph 75A is met.

Refusal of leave to enter to take the PLAB Test

75C. Leave to enter the United Kingdom to take the PLAB Test is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 75A is met.

Requirements for an extension of stay in order to take the PLAB Test

75D. The requirements for an extension of stay in the United Kingdom in order to take the PLAB Test are that the applicant:

- (i) was given leave to enter the United Kingdom for the purposes of taking the PLAB Test in accordance with paragraph 75B of these Rules; and
- (ii) intends to take the PLAB Test and can provide documentary evidence of a confirmed test date; and
- (iii) meets the requirements set out in paragraph 41 (iii)-(vii); and
- (iv) intends to leave the United Kingdom at the end of his leave granted under this paragraph unless he is successful in the PLAB Test and granted leave to remain:

- (a) as a postgraduate doctor or trainee general practitioner in accordance with paragraphs 70 to 75; or
- (b) to undertake a clinical attachment in accordance with paragraphs 75G to 75M of these Rules; or
- (v) would not as a result of an extension of stay spend more than 18 months in the United Kingdom for the purpose of taking the PLAB Test.

Extension of stay to take the PLAB Test

75E. A person seeking leave to remain in the United Kingdom to take the PLAB Test may be granted an extension of stay for a period not exceeding 6 months, provided the Secretary of State is satisfied that each of the requirements of paragraph 75D is met.

Refusal of extension of stay to take the PLAB Test

75F. Leave to remain in the United Kingdom to take the PLAB Test is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 75D is met.

Requirements for leave to enter to undertake a clinical attachment or dental observer post

75G. The requirements to be met by a person seeking leave to enter to undertake a clinical attachment or dental observer post are that the applicant:

- (i) is a graduate from a medical or dental school and intends to undertake a clinical attachment or dental observer post in the United Kingdom; and
- (ii) can provide documentary evidence of the clinical attachment or dental observer post which will:
 - (a) be unpaid; and
 - (b) only involve observation, not treatment, of patients; and
- (iii) meets the requirements of paragraph 41 (iii) – (vii) of these Rules; and
- (iv) intends to leave the United Kingdom at the end of his leave granted under this paragraph unless he is granted leave to remain:
 - (a) as a postgraduate doctor, dentist or trainee general practitioner in accordance with paragraphs 70 to 75;
 - (v) if he has previously been granted leave in this category, is not seeking leave to enter which, when amalgamated with those previous periods of leave, would total more than 6 months.

Leave to enter to undertake a clinical attachment or dental observer post

75H. A person seeking leave to enter the United Kingdom to undertake a clinical attachment or dental observer post may be admitted for the period of the clinical attachment or dental observer post, up to a maximum of 6 weeks at a time or 6 months in total in this category, provided the Immigration Officer is satisfied that each of the requirements of paragraph 75G is met.

Refusal of leave to enter to undertake a clinical attachment or dental observer post

75J. Leave to enter the United Kingdom to undertake a clinical attachment or dental observer post is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 75G is met.

Requirements for an extension of stay in order to undertake a clinical attachment or dental observer post

75K. The requirements to be met by a person seeking an extension of stay to undertake a clinical attachment or dental observer post are that the applicant:

- (i) was given leave to enter or remain in the United Kingdom to undertake a clinical attachment or dental observer post or:
 - (a) for the purposes of taking the PLAB Test in accordance with paragraphs 75A to 75F and has passed both parts of the PLAB Test;
 - (b) as a postgraduate doctor, dentist or trainee general practitioner in accordance with paragraphs 70 to 75; or
 - (c) as a work permit holder for employment in the UK as a doctor or dentist in accordance with paragraphs 128 to 135; and
- (ii) is a graduate from a medical or dental school and intends to undertake a clinical attachment or dental observer post in the United Kingdom; and
- (iii) can provide documentary evidence of the clinical attachment or dental observer post which will:
 - (a) be unpaid; and
 - (b) only involve observation, not treatment, of patients; and
- (iv) intends to leave the United Kingdom at the end of his period of leave granted under this paragraph unless he is granted leave to remain:
 - (a) as a postgraduate doctor, dentist or trainee general practitioner in accordance with paragraphs 70 to 75; or
 - (v) meets the requirements of paragraph 41 (iii) – (vii) of these Rules; and
 - (vi) if he has previously been granted leave in this category, is not seeking an extension of stay which, when amalgamated with those previous periods of leave, would total more than 6 months.

Extension of stay to undertake a clinical attachment or dental observer post

75L. A person seeking leave to remain in the United Kingdom to undertake a clinical attachment or dental observer post up to a maximum of 6 weeks at a time or 6 months in total in this category, may be granted an extension of stay for the period of their clinical attachment or dental observer post, provided that the Secretary of State is satisfied that each of the requirements of paragraph 75K is met.

Refusal of extension of stay to undertake a clinical attachment or dental observer post

75M. Leave to remain in the United Kingdom to undertake a clinical attachment or dental observer post is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 75K is met.

Requirements for leave to enter as a prospective student

82. The requirements to be met by a person seeking leave to enter the United Kingdom as a prospective student are that he:

- (i) can demonstrate a genuine and realistic intention of undertaking, within 6 months of his date of entry:
- (b) a supervised practice placement or midwife adaptation course which would meet the requirements for an extension of stay as an overseas qualified nurse or midwife under paragraphs 69P to 69R of these Rules; and
- (ii) intends to leave the United Kingdom on completion of his studies or on the expiry of his leave to enter if he is not able to meet the requirements for an extension of stay:
- (b) as an overseas qualified nurse or midwife in accordance with paragraph 69P of these Rules; and

Students' unions sabbatical officers

Requirements for leave to enter as a sabbatical officer

87A. The requirements to be met by a person seeking leave to enter the United Kingdom as a sabbatical officer are that the person:

- (i) has been elected to a full-time salaried post as a sabbatical officer at an educational establishment at which he is registered as a student;
- (ii) meets the requirements set out in paragraph 57 (i)-(ii) or met the requirements set out in paragraph 57 (i)-(ii) in the academic year prior to the one in which he took up or intends to take up sabbatical office; and
- (iii) does not intend to engage in business or take employment except in connection with his sabbatical post; and
- (iv) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (v) at the end of the sabbatical post he intends to:
 - (a) complete a course of study which he has already begun; or
 - (b) take up a further course of study which has been deferred to enable the applicant to take up the sabbatical post; or
 - (c) leave the United Kingdom; and
- (vi) has not come to the end of a period of government or international scholarship agency sponsorship, or has the written consent of his official sponsor to take up a sabbatical post in the United Kingdom; and
- (vii) has not already completed 2 years as a sabbatical officer.

Leave to enter the United Kingdom as a sabbatical officer

87B. A person seeking leave to enter the United Kingdom as a sabbatical officer may be admitted for a period not exceeding 12 months on conditions specifying his employment provided the Immigration Officer is satisfied that each of the requirements of paragraph 87A is met.

Refusal of leave to enter the United Kingdom as a sabbatical officer

87C. Leave to enter as a sabbatical officer is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 87A is met.

Requirements for an extension of stay as a sabbatical officer

87D. The requirements for an extension of stay as a sabbatical officer are that the applicant:

- (i) was admitted to the United Kingdom with a valid student entry clearance if he was then a visa national; and
- (ii) meets the requirements set out in paragraph 87A (i) – (vi); and
- (iii) would not, as a result of an extension of stay, remain in the United Kingdom as a sabbatical officer to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Extension of stay as a sabbatical officer

87E. An extension of stay as a sabbatical officer may be granted for a period not exceeding 12 months on conditions specifying his employment provided the Secretary of State is satisfied that the applicant meets each of the requirements of paragraph 87D.

Refusal of extension of stay as a sabbatical officer

87F. An extension of stay as a sabbatical officer is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 87D is met

Requirements for leave to enter the United Kingdom for the purpose of employment under the Sectors-Based Scheme

135I. The requirements to be met by a person seeking leave to enter the United Kingdom for the purpose of employment under the Sectors-Based Scheme are that he:

- (i) holds a valid Home Office immigration employment document issued under the Sectors-Based Scheme; and
- (ii) is aged between 18 and 30 inclusive or was so aged at the date of his application for leave to enter; and
- (iii) is capable of undertaking the employment specified in the immigration employment document; and
- (iv) does not intend to take employment except as specified in his immigration employment document; and
- (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 his approved employment; and
- (vii) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter for the purpose of employment under the Sectors-Based Scheme

135J. A person seeking leave to enter the United Kingdom for the purpose of employment under the Sectors-Based Scheme may be admitted for a period not exceeding 12 months (normally as specified in his work permit), subject to a condition restricting him to employment approved by the Home Office, provided the Immigration Officer is satisfied that each of the requirements of paragraph 135I is met.

Refusal of leave to enter for the purpose of employment under the Sectors-Based Scheme

135K. Leave to enter the United Kingdom for the purpose of employment under the Sectors-Based Scheme is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 135I is met.

Requirements for an extension of stay for Sector-Based employment

135L. The requirements for an extension of stay for Sector-Based employment are that the applicant:

- (i) entered the United Kingdom with a valid Home Office immigration employment document issued under the Sectors-Based Scheme and;
- (ii) has written approval from the Home Office for the continuation of his employment under the Sectors-Based Scheme; and
- (iii) meets the requirements of paragraph 135I (ii) to (vi); and
- (iv) would not, as a result of the extension of stay sought, remain in the United Kingdom for Sector-Based Scheme employment to a date beyond 12 months from the date on which he was given leave to enter the United Kingdom on this occasion in this capacity.

Extension of stay for Sectors-Based Scheme employment

135M. An extension of stay for Sectors-Based Scheme 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 paragraph 135L are met. An extension of stay is to be subject to a condition restricting the applicant to employment approved by the Home Office.

Refusal of extension of stay for Sectors-Based Scheme employment

135N. An extension of stay for Sector-Based Scheme employment is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 135L is met.

245ZG. Period and conditions of grant

(b) The cases referred to in paragraph (a) are those where the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as:

(iii) a Minister of Religion, Missionary or Member of a Religious Order; provided he is still working for the same employer;

Attributes for Tier 1 (Investor) Migrants

47. A regulated financial institution is one which is regulated by the appropriate regulatory body for the country in which the financial institution operates. For example, where a financial institution does business in the UK, the appropriate regulator is the Financial Services Authority.”



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 9 MARCH 2009 (HC 314)**

1. Introduction

1.1 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 purpose of this statement of changes is to implement Tier 4 of the Points Based System (new rules for child and adult students from outside the EEA), make amendments to existing Points Based System routes, delete the Sectors Based Scheme and amend existing provisions of the rules in relation to members of the armed forces and their family members. Other changes to the Rules relate to the knowledge of life and language provisions, and to the definition of public funds.

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

3.1 None.

4. Legislative Context

4.1. The Immigration Rules are the Rules made under section 3(2) of the Immigration Act 1971. These constitute a statement of practice, as laid before Parliament by the Home Secretary, to be followed in regulating entry into, and stay of persons in, the United Kingdom. Under section 3(2) the Secretary of State is obliged “.. from time to time (and as soon as may be) lay before Parliament statements of the Rules, or any changes in the Rules, laid down by him as to the practice to be followed in the administration of this Act ..”.

4.2. This Statement of Changes follows on from three earlier Statements of Changes implementing the Points Based System (laid on, respectively, 6 February 2008 (HC321), 9 June 2008 (HC607) and 4 November 2008 (HC1113)) which implemented Tiers 1, 2 and 5 of the Points Based System.

4.3. The majority of these changes to the Immigration Rules will come into force on 31 March 2009. The changes relating to allowing certain applications under Tier 1, 2 and 5 applications to be made at Public Enquiry Offices will come into force on 6 April 2009.

5. Territorial

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to 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.

The Points-Based System

7.2 In March 2006, following an extensive public consultation, a command paper entitled *A Points-Based System: Making Migration Work for Britain* (CM 6741) was published. This document can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>. This set out proposals to modernise and strengthen the UK's immigration system by bringing in an Australian-style points system comprising five tiers:

- Tier 1: Highly Skilled individuals to contribute to growth and productivity;
- Tier 2: Skilled workers with a job offer to fill gaps in the UK labour force;
- Tier 3: Low skilled workers to fill specific temporary labour shortages;
- Tier 4: Students;
- Tier 5: Youth mobility and temporary workers: people coming to the UK to fulfil primarily non-economic objectives.

7.3 Tier 1 was implemented by Statements of Changes HC 321 and HC 607 and came fully into force on 30 June 2008. Tiers 2 and 5 were implemented on 27 November 2008 by Statement of Changes HC1113. The need to implement Tier 3 will be continued to be kept under review according to the needs of the labour market.

7.4 More detailed plans for Tier 4, which is implemented by this Statement of Changes, were set out in a Statement of Intent published on 30 July 2008. This can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>.

Tier 4 of the Points Based System

Sponsorship under Tier 4

7.5 Under the rules introduced by this Statement of Changes, all migrants under Tier 4 will be required to have a visa letter issued by an education provider that is a licensed sponsor. Provisions about how an education provider becomes a licensed sponsor and how a licensed sponsor issues a prospective migrant with a visa letter are not contained in the immigration rules, rather in guidance published by the United Kingdom Border Agency. The guidance can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>

7.6 In order to obtain a licence, a sponsor must satisfy the United Kingdom Border Agency that it is bona fide, honest and capable of complying with its duties.

7.7 All institutions wishing to obtain a sponsor licence to bring non-EEA students to the UK under Tier 4 will need to demonstrate they have been audited by the Quality Assurance Agency for Higher Education, inspected by Ofsted or its devolved equivalents, or the Independent Schools Inspectorate, or that they have valid accreditation with a United Kingdom Border Agency approved accreditation body. These checks seek to ensure that only those institutions offering courses of genuine educational value will be able to bring non-EEA students to the UK.

Tier 4

7.8 Tier 4 provides a route for migrants who wish to study in the United Kingdom.

7.9 Tier 4 will consist of two subcategories:

- Tier 4 (General) Student – for migrants aged 16 or over who wish to study in the United Kingdom; and

- Tier 4 (Child) Student – for children aged between 4 and 17 years old (inclusive) who wish to be educated in the United Kingdom.
- 7.10 Under the Tier 4 (General) Student sub-category, students will only be able to apply to study for courses at a minimum level of National Qualifications Framework (NQF) level 3 or equivalent, or above. The minimum level of course acceptable English language students will be at Common European Framework of Reference for Languages level A2. Postgraduate doctors and dentists will also be able to undertake placements on a recognised Foundation Programme under Tier 4 (General) Student sub-category.
- 7.11 The Tier 4 (Child) Student sub-category is for children attending independent fee paying schools on a full-time basis. It is also an appropriate route for some 16 and 17 year olds studying lower level courses at further education colleges. Tier 4 (Child) Students will be required to undertake courses of study that are taught in line with the National Curriculum, or accepted as being of equivalent academic status by Ofsted or its devolved equivalents, or that are provided as required by prevailing independent school education inspection standards, or taught in line with the NQF.
- 7.12 Tier 4 will replace a number of existing routes that provide for migrants coming to the United Kingdom for the purpose of study. From 31 March 2009 no further applications under any of the existing student routes will be accepted. The United Kingdom Border Agency will, however, process all applications made before that date under any of the routes that will be deleted on 31 March 2009, and will continue to consider all such applications for entry clearance, leave to enter and leave to remain under the Immigration Rules in force before 31 March 2009.
- 7.13 Tier 4 will introduce the following key measures:
- All migrants seeking to enter the United Kingdom under Tier 4 will need entry clearance.
 - All migrants will need to have a sponsor who has been licensed by the United Kingdom Border Agency.
 - Migrants will need to obtain 30 points for having a valid visa letter from a licensed sponsor and full details of the points that will be awarded and the circumstances in which they will be awarded are set out in paragraphs 113 to 125 of Appendix A.
 - Migrants will also need to obtain 10 points under paragraphs 10 to 17 of Appendix C which is a maintenance requirement. Full details of the points that will be awarded and the circumstances in which they will be awarded are set out in paragraphs 10 to 17 of Appendix C.
 - Tier 4 (General) Students will be able to be accompanied by their dependants (spouse/partner and children under 18). Under Appendix E, £533 will need to be available to support each dependant who will be joining the migrant in the UK. Full details are set out in Appendix E.
 - The existing student rules so that the requirements applied to child dependants of PBS migrants in respect of parental care also apply to child dependants of those who continue to be granted leave under the pre-existing student rules.

Amendments to Tier 1 of the Points Based System

- 7.14 Tier 1 of the Points Based System caters for highly skilled migrants and was fully launched on 30 June 2008. This Statement of Changes makes a number of amendments to it, of which the key ones are:

- Applicants under the Tier 1 (Post-Study Work) route will receive no points for post graduate certificates and diplomas other than UK Postgraduate Certificates of Education.
- Migrants applying for their first period of leave under Tier 1 (General) will receive no points for Bachelors degrees or for previous earnings of less than £20,000. This change will not affect migrants who already have leave under Tier 1 and are seeking an extension of that leave.

Amendments to Tier 2 of the Points Based System

7.15 Tier 2 of the Points Based System caters for skilled migrants with a job offer and was launched on 27 November 2008. This Statement of Changes makes a number of amendments to it, of which the key ones are:

- In order to help facilitate the transfer of skilled workers to the UK we will allow A-rated sponsors to provide an undertaking outside the immigration rules in respect of maintenance for sponsored migrants and their dependants. Sponsored migrants and their dependants with a B-rated sponsor will need to meet the full Tier 2 maintenance requirements.
- Tier 2 (General) Migrants will be able to switch (seek leave to remain in the UK without having to leave the UK and seek entry clearance for the new category) into Tier 4 (General) Student category.
- We will allow overseas qualified nurses and midwives to switch from the government authorised exchange subcategory of Tier 5 (Temporary Worker) into Tier 2 (General) on completion of their registration with the Nursing and Midwifery Council where they meet all of the relevant Tier 2 tests, including the Resident Labour Market Test if applicable.
- We will allow footballers who come to the UK in the creative and sporting sub-category of Tier 5 (Temporary Worker) to switch into Tier 2 (Sportsperson) category of the Points Based System (PBS) where they meet all of the relevant Tier 2 tests.
- We are amending the provisions relating to the validity of a Certificate of Sponsorship (CoS) (the document issued by the employer confirming that the migrant has a job offer and setting out the details of the employment) so that a CoS cannot be assigned more than 6 months ahead of the start date of the employment.
- We are amending the requirement that a person seeking leave in the Tier 2 (Intra-Company Transfer) so that the requirement that the worker must have been employed overseas for 6 months prior to the date of application does not apply where the worker was employed in the United Kingdom during that period as an intra-company transferee.
- We are amending the provisions of the Immigration Rules relating to curtailment of stay so that stay may be curtailed where a Tier 2 Migrant fails to commence the employment for which they have been granted leave.

Amendments to Tier 5 of the Points Based System

7.16 Tier 5 of the Points Based System caters for youth mobility, and for temporary migrants here to meet cultural, religious, sporting, international or similar aims. It was launched on 27 November 2008. This Statement of Changes amends the Tier 5 rules to allow, subject to certain conditions, private servants in diplomatic households who have been working in the UK in the international agreement sub-category of Tier 5 for a continuous period of 5 years to be eligible to apply for settlement. Further, as with Tier 2, the provisions relating to the validity of a CoS are amended so that a CoS cannot be assigned more than 6 months ahead of the start date of the employment.

Business and Special Visitors Category

- 7.17 On 27 November 2008, we introduced a new clear, distinct business category to clarify for the business community what activities business visitors can do in the UK. We also introduced special visas for visiting sportspeople and entertainers, bringing within the Immigration Rules concessionary arrangements that previously applied to those groups. Finally, we introduced a Special Visitors visa to bring together what were previously separate Immigration Rules that had been introduced when a need was identified.
- 7.18 This Statement of Changes makes a number of changes to these provisions, of which the key ones are:
- Correction of the inadvertent prohibition on persons under the age of 18 coming to the United Kingdom to take part in business visitor, sports visitor and entertainer visitor activities as provided in Rules 46G (iii), 46M (iii) and 46S (iii)
 - Clarification of requirements to qualify to enter as a secondee under Rule 46G (iii)(f)
 - Clarification of requirements to qualify to enter as an adviser, consultant, trainer or trouble shooter under Rule 46G (iii)(h)
 - Clarification of requirements to qualify to enter for training in techniques and work practices under Rule 46G (iii)(i)
 - Provision to enable family members of academic visitors to come to the United Kingdom or to extend their stay here to a maximum of 12 months in line with the academic visitor

Public funds

- 7.19 These Changes amend the definition of public funds in the Immigration Rules to make it clear that where a sponsor's increased entitlement to public funds is due only to an increase that he and the dependant are jointly entitled to receive by virtue of the relevant regulations, this will not be treated as recourse to public funds. The new Rule at paragraph 6C makes it clear that anticipated entitlement to public funds payable either to the person or to the sponsor as a result of the dependant's presence in the UK cannot be relied upon to satisfy the maintenance and accommodation requirements of an Entry Clearance application.

Amendments to Knowledge of Life Rules

- 7.20 Paragraphs 33E and 33F of the Immigration Rules allow applications for indefinite leave to remain to be considered as applications for an extension of stay where an applicant does not meet the necessary requirement to demonstrate sufficient knowledge of the English language and life in the UK. This provision was intended to be a transitional arrangement to minimise the impact of the introduction of the requirement to demonstrate knowledge of language and life in the UK when the requirement was introduced on 2 April 2007. It is considered that the requirement has been in place long enough to end the arrangement and this Statement of Changes deletes these provisions accordingly.
- 7.21 A person who is unable to satisfy the requirement to demonstrate knowledge of language and life in the UK can still be considered for an extension of stay but will need to ensure that they apply specifically for further leave to remain in the UK rather than for indefinite leave to remain. Applications for indefinite leave to remain that do not meet the requirement to demonstrate knowledge of language and life in the UK where it is required will be refused.

Amendments to Rules for armed forces dependants

- 7.22 The amendments to paragraphs 276R to 276W allow for unmarried and same-sex partners of armed forces members who are exempt from immigration control to apply for limited leave to

enter or remain. This provision would apply to dependants of members of HM Forces, of visiting Commonwealth Forces and of those posted to the UK as part of a NATO force or a NATO organisation. Previously the provisions within the Rules only allowed for a grant of leave to enter to the spouse or civil partner of an armed forces member. The proposed changes include the requirement, similar to that applying to unmarried and same-sex partners of persons admitted under the Points Based System, for the relationship to be of at least 2 years' duration at the time of the application.

- 7.23 Serving members of HM Forces are automatically exempt from immigration control so their dependent spouses/civil partners and children only become eligible for settlement when the HM Forces member's exemption ceases (upon discharge) and they are able to apply for settlement themselves. These arrangements can place HM Forces dependants at a disadvantage compared to dependants of those in approved employment categories, one of the adverse impacts for the dependants involved, being a lack of access to domestic rate student fees. The amendments to paragraphs 276R – 276W and 276X – 276AC enable HM Forces dependants to apply for indefinite leave once the serving HM Forces member has completed 5 years continuous service.

Deletion of Sectors-Based Scheme

- 7.24 The Sectors-Based Scheme allows certain overseas nationals to come to the UK temporarily to do unskilled work in certain sectors where there are shortages. Since 1 January 2007, eligibility for this scheme has been restricted to nationals of Romania and Bulgaria, in line with the Government's policy that the UK's need for unskilled overseas labour should be met from within the European Economic Area.
- 7.25 Romanian and Bulgarian nationals come to the UK to work in accordance with European Union free movement rules, as modified for their circumstances, and not under the Immigration Rules. Tier 3 of the Points Based System for unskilled migrant labour from outside the EEA is not currently being implemented, reflecting the needs of the labour market. There is similarly no need for the Sectors-Based Scheme to remain in the Immigration Rules, and it is being deleting.

Immigration routes being deleted by this Statement

- 7.26 This Statement of Changes deletes the following routes from the Immigration Rules:

- Student;
- Student Nurse;
- Student re-sitting an examination;
- Student Writing up a Thesis;
- Postgraduate Doctor and Dentist;
- Student Union Sabbatical Officer;
- Sectors-Based Scheme;

- 7.27 The following published concessions, which existed as concessions outside the Immigration rules, are also being deleted:

- Sandwich Students;
- Bar Students;
- Music Students;

- Pupil barristers;
- Wellbeck College Students;
- Association of American Study Abroad Programmes;
- Pestalozzi Children's Trust.

Transitional arrangements

- 7.28 Any application made in the categories referred to at paragraphs 7.26 and 7.27 before this Statement of Changes comes into operation on 31 March 2008 will be considered under the Rules in force on 30 March 2008. Changes to Tiers 1, 2 and 5 will not apply to applications made under the provisions relating to those Tiers before 31 March 2009.
- 7.29 Migrants with leave in any of the other categories listed in paragraphs 7.26 or 7.27 will be able to stay in the UK until their leave expires, provided they continue to meet the conditions under which it was granted. After that, they will need to apply for further leave either under the Points Based System or in another category.

Consolidation

- 7.30 This Statement of Changes in Immigration Rules has been incorporated into a consolidated version of the Immigration Rules, which can be found under the 'Policy and Law' page at: www.ukba.homeoffice.gov.uk, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

8. Consultation outcome

Points Based System

- 8.1 This is the latest of a number of instruments that implement the Points Based System. The proposals underpinning the new system were published in a Command Paper "A Points-Based System: Making Migration Work for Britain" (Cm 6741), published in March 2006. This followed a 16 week public consultation running from 19 July to 17 November 2005.
- 8.2 That consultation involved educational institutions, employers, the National Union of Students (NUS) and similar individuals and organisations. We received a total of 577 responses, though not all respondents answered every question in the consultation. The majority of respondents who expressed an opinion (243-62) agreed that a student's leave to enter or remain in the UK should be linked to a specific course at a specific institution. The majority (168-37) also agreed that educational institutions should be required to help maintain the integrity of the immigration control in order to be able to bring in students from outside the European Economic Area.
- 8.3 Since publishing the Command Paper, the United Kingdom Border Agency has worked closely with immigration stakeholders, including Universities UK, the British Council, other educational bodies and the NUS to develop and refine the policy. This should not be taken as implying that every one of these organisations agrees with each of these changes. These have been informal consultations and it is not possible to provide a detailed analysis of the responses.
- 8.4 Impact assessments were published alongside the Statement of Intent for Tier 4. As part of these assessments policy proposals were sent to the following stakeholder groups for comments in addition to the informal consultations. We received views from a number of these organisations and gave them careful consideration in formulating the final policy. :
- Equality and Human Rights Commission
 - ILPA

- Joint Council for the Welfare of Immigrants
- Terrence Higgins Trust
- The Runnymede Trust
- Trades Union Congress
- Immigration Advisory Service
- Local Government Association
- Convention of Scottish Local Authorities
- Black Information Link
- The Inter Faith Network for the UK
- Office for Disability Issues
- Employers' Forum on Disability
- Women's National Commission
- a: gender
- Scottish Transgender Alliance
- Gender Identity Research and Education Society
- Press for Change
- Stonewall
- Age Positive.

Business and Special Visitors route

8.5 As these are either minor technical changes or clarification of current Rules, no public consultation was thought necessary, however we have consulted key stakeholders including those from the business community who participate in the Business Visitor group.

Other

8.6 The main changes described here in respect of the HM Forces Rules flow from commitments jointly agreed by the UK Border Agency and the Ministry of Defence and published in the July 2008 Command Paper *The Nation's Commitment: Cross-Government Support to our Armed Forces, their Families and Veterans*. The Department of Innovation, Universities & Skills has also been consulted on the effect of the eligibility of dependants of serving HM Forces members for settlement and the assistance this will give them in having access to domestic rate fees for university courses.

9. Guidance

PBS

9.1 Comprehensive guidance on each tier of the PBS has been published. The guidance explains to both migrants and employers what these changes mean to them. The guidance can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>

Other changes made by this Statement

9.2 Comprehensive guidance on the Business and Special Visitors routes was published before the changes to the Immigration Rules were introduced on 27 November 2008. This has been updated to reflect the changes covered in this EM. The guidance can be found at: <http://www.ukba.homeoffice.gov.uk/visitingtheuk/businessandspecialvisitors/businessvisitors/>

10. Impact

Points Based System

10.1 The impact of Tier 4 on business, including private education providers, and the public sector, including the publicly funded-education providers and the United Kingdom Border Agency is likely to be negligible. While education providers will need to take on additional responsibilities as sponsors of non-EEA students, such as reporting non-enrolment and non-attendance of their sponsored students, this perceived burden is likely to be at least counterbalanced by the benefits of the simpler, more streamlined migration processes that we are introducing. Education providers and their potential students will find the system more straightforward to use, and the United Kingdom Border Agency should benefit from a decrease in time and resources needed to respond to queries and defend appeals against refusal of applications.

10.2 The voluntary sector is unlikely to be affected by the introduction of Tier 4. That said, it may continue to benefit, as now, from the provision for Tier 4 students to be able to take some work outside of their studies, who may choose to carry out voluntary work which will benefit the sector.

10.3 An impact assessment on Tier 4 of the Points Based System was published on 30 June 2008 and can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>

10.4 Since the changes to the Business and Special Visitors route are of a minor, technical nature, their impact on business, the public and voluntary sectors is expected to be minimal [non-existent]. The changes clarify, rather than change, policy. An impact assessment has therefore not been prepared. The impact assessment provided on the introduction of the Rules in November 2008 is at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/businessandspecialvisitors/impactassessment.pdf>

11. Regulating Small Business

Points Based System

11.1 These Immigration Rules apply to small businesses. The basis for the final decision on what action to take to assist small business was the consultation describe above. The private education sector, which contains a large number of unaccredited small providers, will be affected by the requirement for these education providers to be accredited by a United Kingdom Border Agency-approved accreditation body in order to continue to bring non-EEA students to the United Kingdom under Tier 4. It is likely, therefore that the extra costs of accreditation passed onto students will be higher in smaller schools. This may affect the competitiveness of very small education providers in the United Kingdom although an analysis of responses to a consultation undertaken prior to the introduction of the Tier 4 accreditation requirement revealed that many students are prepared to pay more to attend an institution which has been independently quality assured. In addition, private institutions may price their courses on the basis of many factors and so the cost of accreditation might not be fully or directly recouped from students.

11.2 To minimise the impact of the requirements on small firms employing up to 20 people, the approach taken is in the context of fees. It is not possible to have an exemption to the accreditation requirement for small education providers as this would undermine the robustness

of the control for a route which has been subject to abuse from bogus institutions. However the United Kingdom Border Agency approved accreditation bodies charge a range of fees which ensure that those recruiting smaller numbers of students are charged reduced rates compared to larger providers and United Kingdom Border Agency's own fee structures have reduced charges for Tier 4 sponsor licences and students visas. The introduction of a mandatory accreditation requirement was the subject of consultation with the education sector and was supported by 85% of respondents including a large number of small providers who had already voluntarily sought accreditation. The accreditation consultation report and accreditation regulatory impact assessment were published on 30 July 2007 and can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>

- 11.3 An impact assessment on accreditation of private education institutions involved in recruiting international students under Tier 4 of the Points Based System was published in July 2007 and can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>.
- 11.4 On Business and Special Visitors the changes are minimal and there should be no effect on businesses employing less than 20 people.

12. Monitoring and review

- 12.1 All the changes introduced by this Statement will be continuously monitored as part of review of progress towards meeting PSA 3: "to ensure controlled, fair migration that protects the public and contributes to economic growth". For further information please see the impact assessments for the individual changes.

13. Contact

- 13.1 All queries should be addressed to Mr Ben White on 0208 760 8635 or by email to Benjamin.White33@homeoffice.gsi.gov.uk

