

OISC LEVEL 1 EXAM RESOURCE BOOK

APRIL 2015 VERSION

The April 2015 version of this resource book has been updated to include amendments to the Immigration (EEA) Regulations 2006 introduced by the Immigration (European Economic Area) (Amendment) Regulations 2015, amendments to the immigration rules published in Statements of Changes HC1025 (except those relating to the new visit provisions in the new Appendix V). We have also included the provisions of the 10-year long residence category, criminal offences under the 1971 Act, time limits for appeals and administrative reviews, and the new Health Charge Order.

Although great care has been taken in the compilation and preparation of this book to ensure accuracy, the OISC cannot in any circumstances accept responsibility for any errors or omissions.

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Immigration Act 1971

1 General principles

(1) All those who are in this Act expressed to have the right of abode in the United Kingdom shall be free to live in, and to come and go into and from, the United Kingdom without let or hindrance except such as may be required under and in accordance with this Act to enable their right to be established or as may be otherwise lawfully imposed on any person.

(2) Those not having that right may live, work and settle in the United Kingdom by permission and subject to such regulation and control of their entry into, stay in and departure from the United Kingdom as is imposed by this Act; and indefinite leave to enter or remain in the United Kingdom shall, by virtue of this provision be treated as having been given under this Act to those in the United Kingdom at its coming into force, if they are then settled there (and not exempt under this Act from the provisions relating to leave to enter or remain).

(3) Arrival in and departure from the United Kingdom on a local journey from or to any of the Islands (that is to say, the Channel Islands and Isle of Man) or the Republic of Ireland shall not be subject to control under this Act, nor shall a person require leave to enter the United Kingdom on so arriving, except in so far as any of those places is for any purpose excluded from this subsection under the powers conferred by this Act; and in this Act the United Kingdom and those places, or such of them as are not so excluded, are collectively referred to as "the common travel area".

(4) The rules laid down by the Secretary of State as to the practice to be followed in the administration of this Act for regulating the entry into and stay in the United Kingdom of persons not having the right of abode shall include provision for admitting (in such cases and subject to such restrictions as may be provided by the rules, and subject or not to conditions as to length of stay or otherwise) persons coming for the purpose of taking employment, or for purposes of study, or as visitors, or as dependants of persons lawfully in or entering the United Kingdom.

3C Continuation of leave pending variation decision

(1) This section applies if—

- (a) a person who has limited leave to enter or remain in the United Kingdom applies to the Secretary of State for variation of the leave,
- (b) the application for variation is made before the leave expires, and
- (c) the leave expires without the application for variation having been decided.

(2) The leave is extended by virtue of this section during any period when—

- (a) the application for variation is neither decided nor withdrawn,
- (b) an appeal under section 82(1) of the Nationality, Asylum and Immigration Act 2002 could be brought, while the appellant is in the United Kingdom against the decision on the application for variation (ignoring any possibility of an appeal out of time with permission),
- (c) an appeal under that section against that decision, brought while the appellant is in the United Kingdom, is pending (within the meaning of section 104 of that Act), or
- (d) an administrative review of the decision on the application for variation—
 - (i) could be sought, or
 - (ii) is pending.

(3) Leave extended by virtue of this section shall lapse if the applicant leaves the United Kingdom.

(4) A person may not make an application for variation of his leave to enter or remain in the United

Kingdom while that leave is extended by virtue of this section.

(5) But subsection (4) does not prevent the variation of the application mentioned in subsection (1)(a).

(6) The Secretary of State may make regulations determining when an application is decided for the purposes of this section; and the regulations—

- (a) may make provision by reference to receipt of a notice,
- (b) may provide for a notice to be treated as having been received in specified circumstances,
- (c) may make different provision for different purposes or circumstances,
- (d) shall be made by statutory instrument, and
- (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section—

“administrative review” means a review conducted under the immigration rules;

the question of whether an administrative review is pending is to be determined in accordance with the immigration rules.

...

24 Illegal entry and similar offences

(1) A person who is not a British citizen shall be guilty of an offence punishable on summary conviction with a fine of not more than level 5 on the standard scale or with imprisonment for not more than six months, or with both, in any of the following cases:—

(a) if contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave;

(aa) . . .

(b) if, having only a limited leave to enter or remain in the United Kingdom, he knowingly either—

(i) remains beyond the time limited by the leave; or

(ii) fails to observe a condition of the leave;

(c) if, having lawfully entered the United Kingdom without leave by virtue of section 8(1) above, he remains without leave beyond the time allowed by section 8(1);

(d) if, without reasonable excuse, he fails to comply with any requirement imposed on him under Schedule 2 to this Act to report to a medical officer of health, or to attend, or submit to a test or examination, as required by such an officer;

(e) if, without reasonable excuse, he fails to observe any restriction imposed on him under Schedule 2 or 3 to this Act as to residence, as to his employment or occupation or as to reporting to the police, to an immigration officer or to the Secretary of State;

(f) if he disembarks in the United Kingdom from a ship or aircraft after being placed on board under Schedule 2 or 3 to this Act with a view to his removal from the United Kingdom;

(g) if he embarks in contravention of a restriction imposed by or under an Order in Council under section 3(7) of this Act.

(1A) A person commits an offence under subsection (1)(b)(i) above on the day when he first knows that the time limited by his leave has expired and continues to commit it throughout any period during which he is in the United Kingdom thereafter; but a person shall not be prosecuted under that provision more than once in respect of the same limited leave.

(2) . . .

(3) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(a) and (c) above.

(4) In proceedings for an offence against subsection (1)(a) above of entering the United Kingdom without leave,—

(a) any stamp purporting to have been imprinted on a passport or other travel document by an immigration officer on a particular date for the purpose of giving leave shall be presumed to have been duly so imprinted, unless the contrary is proved;

(b) proof that a person had leave to enter the United Kingdom shall lie on the defence if, but only if, he is shown to have entered within six months before the date when the proceedings were commenced.

24A Deception

(1) A person who is not a British citizen is guilty of an offence if, by means which include deception by him—

(a) he obtains or seeks to obtain leave to enter or remain in the United Kingdom; or

(b) he secures or seeks to secure the avoidance, postponement or revocation of enforcement action against him.

(2) “Enforcement action”, in relation to a person, means—

(a) the giving of directions for his removal from the United Kingdom (“directions”) under Schedule 2 to this Act or section 10 of the Immigration and Asylum Act 1999;

(b) the making of a deportation order against him under section 5 of this Act; or

(c) his removal from the United Kingdom in consequence of directions or a deportation order.

(3) A person guilty of an offence under this section is liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both.

(4) . . .

25 Assisting unlawful immigration to member State

(1) A person commits an offence if he—

(a) does an act which facilitates the commission of a breach of immigration law by an individual who is not a citizen of the European Union,

(b) knows or has reasonable cause for believing that the act facilitates the commission of a breach of immigration law by the individual, and

(c) knows or has reasonable cause for believing that the individual is not a citizen of the European Union.

(2) In subsection (1) “immigration law” means a law which has effect in a member State and which

controls, in respect of some or all persons who are not nationals of the State, entitlement to—

- (a) enter the State,
 - (b) transit across the State, or
 - (c) be in the State.
- (3) A document issued by the government of a member State certifying a matter of law in that State—
- (a) shall be admissible in proceedings for an offence under this section, and
 - (b) shall be conclusive as to the matter certified.
- (4) Subsection (1) applies to things done whether inside or outside the United Kingdom.
- (6) A person guilty of an offence under this section shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 14 years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding six months, to a fine not exceeding the statutory maximum or to both.
- (7) In this section—
- (a) a reference to a member State includes a reference to a State on a list prescribed for the purposes of this section by order of the Secretary of State (to be known as the “Section 25 List of Schengen Acquis States”), and
 - (b) a reference to a citizen of the European Union includes a reference to a person who is a national of a State on that list.
- (8) An order under subsection (7)(a)—
- (a) may be made only if the Secretary of State thinks it necessary for the purpose of complying with the United Kingdom's obligations under the EU Treaties,
 - (b) may include transitional, consequential or incidental provision,
 - (c) shall be made by statutory instrument, and
 - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

25A Helping asylum-seeker to enter United Kingdom

- (1) A person commits an offence if—
- (a) he knowingly and for gain facilitates the arrival in, or the entry into, the United Kingdom of an individual, and
 - (b) he knows or has reasonable cause to believe that the individual is an asylum-seeker.
- (2) In this section “asylum-seeker” means a person who intends to claim that to remove him from or require him to leave the United Kingdom would be contrary to the United Kingdom's obligations under—
- (a) the Refugee Convention (within the meaning given by section 167(1) of the Immigration and Asylum Act 1999 (c 33) (interpretation)), or
 - (b) the Human Rights Convention (within the meaning given by that section).
- (3) Subsection (1) does not apply to anything done by a person acting on behalf of an organisation

which—

- (a) aims to assist asylum-seekers, and
- (b) does not charge for its services.

(4) Subsections (4) and (6) of section 25 apply for the purpose of the offence in subsection (1) of this section as they apply for the purpose of the offence in subsection (1) of that section.

25B Assisting entry to United Kingdom in breach of deportation or exclusion order

(1) A person commits an offence if he—

(a) does an act which facilitates a breach of a deportation order in force against an individual who is a citizen of the European Union, and

(b) knows or has reasonable cause for believing that the act facilitates a breach of the deportation order.

(2) Subsection (3) applies where the Secretary of State personally directs that the exclusion from the United Kingdom of an individual who is a citizen of the European Union is conducive to the public good.

(3) A person commits an offence if he—

(a) does an act which assists the individual to arrive in, enter or remain in the United Kingdom,

(b) knows or has reasonable cause for believing that the act assists the individual to arrive in, enter or remain in the United Kingdom, and

(c) knows or has reasonable cause for believing that the Secretary of State has personally directed that the individual's exclusion from the United Kingdom is conducive to the public good.

(4) Subsections (4) and (6) of section 25 apply for the purpose of an offence under this section as they apply for the purpose of an offence under that section.

26 General offences in connection with administration of Act

(1) A person shall be guilty of an offence punishable on summary conviction with a fine of not more than level 5 on the standard scale or with imprisonment for not more than six months, or with both, in any of the following cases—

(a) if, without reasonable excuse, he refuses or fails to submit to examination under Schedule 2 to this Act;

(b) if, without reasonable excuse, he refuses or fails to furnish or produce any information in his possession, or any documents in his possession or control, which he is on an examination under that Schedule required to furnish or produce;

(c) if on any such examination or otherwise he makes or causes to be made to an immigration officer or other person lawfully acting in the execution of a relevant enactment a return, statement or representation which he knows to be false or does not believe to be true;

(d) if, without lawful authority, he alters any certificate of entitlement, entry clearance, work permit or other document issued or made under or for the purposes of this Act, or uses for the purposes of this Act, or has in his possession for such use, any passport, certificate of entitlement, entry clearance, work permit or other document which he knows or has reasonable cause to believe to be false;

(e) if, without reasonable excuse, he fails to complete and produce a landing or embarkation card in accordance with any order under Schedule 2 to this Act;

(f) if, without reasonable excuse, he fails to comply with any requirement or regulations under section 4(3) or of an order under section 4(4) above;

(g) if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this Act.

(2) The extended time limit for prosecutions which is provided for by section 28 below shall apply to offences under subsection (1)(c) and (d) above.

(3) "Relevant enactment" means—

- (a) this Act;
- (b) the Immigration Act 1988;
- (c) the Asylum and Immigration Appeals Act 1993 (apart from section 4 or 5); . . .
- (d) the Immigration and Asylum Act 1999 (apart from Part VI); or
- (e) the Nationality, Immigration and Asylum Act 2002 (apart from Part 5)

British Nationality Act 1981

Sections 1-3

Acquisition after commencement

1 Acquisition by birth or adoption

(1) A person born in the United Kingdom after commencement, or in a qualifying territory on or after the appointed day, shall be a British citizen if at the time of the birth his father or mother is—

- (a) a British citizen; or
- (b) settled in the United Kingdom or that territory.

(1A) A person born in the United Kingdom or a qualifying territory on or after the relevant day shall be a British citizen if at the time of the birth his father or mother is a member of the armed forces.

(2) A new-born infant who, after commencement, is found abandoned in the United Kingdom, or on or after the appointed day is found abandoned in a qualifying territory, shall, unless the contrary is shown, be deemed for the purposes of subsection (1)—

- (a) to have been born in the United Kingdom after commencement or in that territory on or after the appointed day; and
- (b) to have been born to a parent who at the time of the birth was a British citizen or settled in the United Kingdom or that territory.

(3) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1), (1A) or (2) shall be entitled to be registered as a British citizen if, while he is a minor—

- (a) his father or mother becomes a British citizen or becomes settled in the United Kingdom; and
- (b) an application is made for his registration as a British citizen.

(3A) A person born in the United Kingdom on or after the relevant day who is not a British citizen by virtue of subsection (1), (1A) or (2) shall be entitled to be registered as a British citizen if, while he is a minor—

- (a) his father or mother becomes a member of the armed forces; and
- (b) an application is made for his registration as a British citizen

(4) A person born in the United Kingdom after commencement who is not a British citizen by virtue of subsection (1), (1A) or (2) shall be entitled, on an application for his registration as a British citizen made at any time after he has attained the age of ten years, to be registered as such a citizen if, as regards each of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year does not exceed 90.

(5) Where—

- (a) any court in the United Kingdom or, on or after the appointed day, any court in a qualifying territory makes an order authorising the adoption of a minor who is not a British citizen; or
- (b) a minor who is not a British citizen is adopted under a Convention adoption, effected under the law of a country or territory outside the United Kingdom,

that minor shall, if the requirements of subsection (5A) are met, be a British citizen as from the date on which the order is made or the Convention adoption is effected, as the case may be.

(5A) Those requirements are that on the date on which the order is made or the Convention adoption is effected (as the case may be)—

(a) the adopter or, in the case of a joint adoption, one of the adopters is a British citizen; and

(b) in a case within subsection (5)(b), the adopter or, in the case of a joint adoption, both of the adopters are habitually resident in the United Kingdom or in a designated territory.

(6) Where an order or a Convention adoption in consequence of which any person became a British citizen by virtue of subsection (5) ceases to have effect, whether on annulment or otherwise, the cesser shall not affect the status of that person as a British citizen.

(7) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of subsection (4) treat the person to whom the application relates as fulfilling the requirement specified in that subsection although, as regards any one or more of the first ten years of that person's life, the number of days on which he was absent from the United Kingdom in that year or each of the years in question exceeds 90.

(8) In this section and elsewhere in this Act “settled” has the meaning given by section 50 . . .

(9) The relevant day for the purposes of subsection (1A) or (3A) is the day appointed for the commencement of section 42 of the Borders, Citizenship and Immigration Act 2009 (which inserted those subsections).

2 Acquisition by descent

(1) A person born outside the United Kingdom and the qualifying territories after commencement shall be a British citizen if at the time of the birth his father or mother—

(a) is a British citizen otherwise than by descent; or

(b) is a British citizen and is serving outside the United Kingdom and the qualifying territories in service to which this paragraph applies, his or her recruitment for that service having taken place in the United Kingdom or a qualifying territory; or

(c) is a British citizen and is serving outside the United Kingdom and the qualifying territories in service under an EU institution, his or her recruitment for that service having taken place in a country which at the time of the recruitment was a member of the European Union.

(2) Paragraph (b) of subsection (1) applies to—

(a) Crown service under the government of the United Kingdom or of a qualifying territory; and

(b) service of any description for the time being designated under subsection (3).

(3) For the purposes of this section the Secretary of State may by order made by statutory instrument designate any description of service which he considers to be closely associated with the activities outside the United Kingdom and the qualifying territories of Her Majesty's government in the United Kingdom or in a qualifying territory.

(4) Any order made under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

3 Acquisition by registration: minors

(1) If while a person is a minor an application is made for his registration as a British citizen, the Secretary of State may, if he thinks fit, cause him to be registered as such a citizen.

(2) A person born outside the United Kingdom and the qualifying territories shall be entitled, on an application for his registration as a British citizen made while he is a minor, to be registered as such a citizen if the requirements specified in subsection (3) or, in the case of a person born stateless, the requirements specified in paragraphs (a) and (b) of that subsection, are fulfilled in the case of either that person's father or his mother (“the parent in question”).

- (3) The requirements referred to in subsection (2) are—
- (a) that the parent in question was a British citizen by descent at the time of the birth; and
 - (b) that the father or mother of the parent in question—
 - (i) was a British citizen otherwise than by descent at the time of the birth of the parent in question; or
 - (ii) became a British citizen otherwise than by descent at commencement, or would have become such a citizen otherwise than by descent at commencement but for his or her death; and
 - (c) that, as regards some period of three years ending with a date not later than the date of the birth—
 - (i) the parent in question was in the United Kingdom or a qualifying territory at the beginning of that period; and
 - (ii) the number of days on which the parent in question was absent from the United Kingdom and the qualifying territories in that period does not exceed 270.
- (4) . . .
- (5) A person born outside the United Kingdom and the qualifying territories shall be entitled, on an application for his registration as a British citizen made while he is a minor, to be registered as such a citizen if the following requirements are satisfied, namely—
- (a) that at the time of that person's birth his father or mother was a British citizen by descent; and
 - (b) subject to subsection (6), that that person and his father and mother were in the United Kingdom or a qualifying territory at the beginning of the period of three years ending with the date of the application and that, in the case of each of them, the number of days on which the person in question was absent from the United Kingdom and the qualifying territories in that period does not exceed 270; and
 - (c) subject to subsection (6), that the consent of his father and mother to the registration has been signified in the prescribed manner.
- (6) In the case of an application under subsection (5) of the registration of a person as a British citizen—
- (a) if his father or mother died, or their marriage or civil partnership was terminated, on or before the date of the application, or his father and mother were legally separated on that date, the references to his father and mother in paragraph (b) of that subsection shall be read either as references to his father or as references to his mother; and
 - (b) if his father or mother died on or before that date, the reference to his father and mother in paragraph (c) of that subsection shall be read as a reference to either of them; . . .

6 Acquisition by naturalisation.

- (1) If, on an application for naturalisation as a British citizen made by a person of full age and capacity, the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.
- (2) If, on an application for naturalisation as a British citizen made by a person of full age and capacity who on the date of the application is married to a British citizen, or is the civil partner of a British citizen the Secretary of State is satisfied that the applicant fulfils the requirements of Schedule 1 for naturalisation as such a citizen under this subsection, he may, if he thinks fit, grant to him a certificate of naturalisation as such a citizen.

Schedule 1

Naturalisation as a british citizen under section 6(1)

1

(1) Subject to paragraph 2, the requirements for naturalisation as a British citizen under section 6(1) are, in the case of any person who applies for it—

(a) the requirements specified in sub-paragraph (2) of this paragraph, or the alternative requirement specified in sub-paragraph (3) of this paragraph; and

(b) that he is of good character; and

(c) that he has a sufficient knowledge of the English, Welsh or Scottish Gaelic language; and

(ca) that he has sufficient knowledge about life in the United Kingdom; and

(d) that either—

(i) his intentions are such that, in the event of a certificate of naturalisation as a British citizen being granted to him, his home or (if he has more than one) his principal home will be in the United Kingdom; or

(ii) he intends, in the event of such a certificate being granted to him, to enter into, or continue in, Crown service under the government of the United Kingdom, or service under an international organisation of which the United Kingdom or Her Majesty's government therein is a member, or service in the employment of a company or association established in the United Kingdom.

(2) The requirements referred to in sub-paragraph (1)(a) of this paragraph are—

(a) that the applicant was in the United Kingdom at the beginning of the period of five years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 450; and

(b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and

(c) that he was not at any time in the period of twelve months so ending subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and

(d) that he was not at any time in the period of five years so ending in the United Kingdom in breach of the immigration laws.

2

(1) If in the special circumstances of any particular case the Secretary of State thinks fit, he may for the purposes of paragraph 1 do all or any of the following things, namely—

(a) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(a) or paragraph 1(2)(b), or both, although the number of days on which he was absent from the United Kingdom in the period there mentioned exceeds the number there mentioned;

(a) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(b) although the number of days on which the applicant was absent from the United Kingdom in a year of the qualifying period exceeds 90;

(b) treat the applicant as having been in the United Kingdom for the whole or any part of any period during which he would otherwise fall to be treated under paragraph 9(1) as having been absent;

(ba) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(c) where the applicant has had a qualifying immigration status for only part of the qualifying period;

(bb) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(d) where the applicant has had probationary citizenship leave but it expired in the qualifying period;

(c) disregard any such restriction as is mentioned in paragraph 1(2)(c), not being a restriction to which the applicant was subject on the date of the application;

(ca) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(e) although the applicant has not been in continuous employment since the date of the grant mentioned there;

(d) treat the applicant as fulfilling the requirement specified in paragraph 1(2)(d) although he was in the United Kingdom in breach of the immigration laws in the period there mentioned qualifying period;

(e) waive the need to fulfil either or both of the requirements specified in paragraph 1(1)(c) and (ca) if he considers that because of the applicant's age or physical or mental condition it would be unreasonable to expect him to fulfil that requirement or those requirements.

(2) If in the special circumstances of a particular case that is an armed forces case or an exceptional Crown service case the Secretary of State thinks fit, the Secretary of State may for the purposes of paragraph 1 waive the need to fulfil all or any of the requirements specified in paragraph 1(2).

(3) An armed forces case is a case where, on the date of the application, the applicant is or has been a member of the armed forces.

(4) An exceptional Crown service case is a case where—

(a) the applicant is, on the date of the application, serving outside the United Kingdom in Crown service under the government of the United Kingdom; and

(b) the Secretary of State considers the applicant's performance in the service to be exceptional.

(5) In paragraph 1(2)(e) and sub-paragraph (1)(ca) of this paragraph, "employment" includes self-employment.

Naturalisation as a British citizen under section 6(2)

3

Subject to paragraph 4, the requirements for naturalisation as a British citizen under section 6(2) are, in the case of any person who applies for it—

(a) that he was in the United Kingdom at the beginning of the period of three years ending with the date of the application, and that the number of days on which he was absent from the United Kingdom in that period does not exceed 270; and

(b) that the number of days on which he was absent from the United Kingdom in the period of twelve months so ending does not exceed 90; and

(c) that on the date of the application he was not subject under the immigration laws to any restriction on the period for which he might remain in the United Kingdom; and

(d) that he was not at any time in the period of three years ending with the date of the application in the United Kingdom in breach of the immigration laws; and

(e) the requirements specified in paragraph 1(1)(b), (c) and (ca).

The Tribunal Procedure (First-tier Tribunal) (Immigration and Asylum Chamber) Rules 2014

...

Calculating time

11.—(1) An act required or permitted to be done on or by a particular day by these Rules, a practice direction or a direction must, unless otherwise directed, be done by midnight on that day.

(2) Subject to the Tribunal directing that this paragraph does not apply, if the time specified by these Rules, a practice direction or a direction for doing any act ends on a day other than a working day, the act is done in time if it is done on the next working day.

...

Notice of appeal

19.—(1) An appellant must start proceedings by providing a notice of appeal to the Tribunal.

(2) If the person is in the United Kingdom, the notice of appeal must be received not later than 14 days after they are sent the notice of the decision against which the appeal is brought.

(3) If the person is outside the United Kingdom, the notice of appeal must be received —

(a) not later than 28 days after their departure from the United Kingdom if the person—

(i) was in the United Kingdom when the decision against which they are appealing was made, and

(ii) may not appeal while they are in the United Kingdom by reason of a provision of the 2002 Act; or

(b) in any other case, not later than 28 days after they receive the notice of the decision.

...

Immigration Rules (HC395) (extract only)

Interpretation (paragraph 6, extract only)

6. In these Rules the following interpretations apply:

"the **Immigration Acts**" has the same meaning as it has in the Interpretation Act 1978. "**the 1993 Act**" is the Asylum and Immigration Appeals Act 1993.

"**the 1996 Act**" is the Asylum and Immigration Act 1996

"**the 2006 EEA Regulations**" means the Immigration (European Economic Area) Regulations 2006

"**adoption**" unless the contrary intention appears, includes a de facto adoption in accordance with the requirements of paragraph 309A of these Rules, and "adopted" and "adoptive parent" should be construed accordingly.

In Appendix FM references to '**application for leave to remain**' include an application for variation of leave to enter or remain of a person in the UK.

"**Approved Destination Status Agreement with China**" means the Memorandum of Understanding on visa and related issues concerning tourist groups from the People's Republic of China to the United Kingdom as a approved destination, signed on 21 January 2005.

"**a bona fide private education institution**" is a private education institution which:

- a) maintains satisfactory records of enrolment and attendance of students, and supplies these to the Border and Immigration Agency when requested;
- b) provides courses which involve a minimum of 15 hours organised daytime study per week;
- c) ensures a suitably qualified tutor is present during the hours of study to offer teaching and instruction to the students;
- d) offers courses leading to qualifications recognised by the appropriate accreditation bodies;
- e) employs suitably qualified staff to provide teaching, guidance and support to the students;
- f) provides adequate accommodation, facilities, staffing levels and equipment to support the numbers of students enrolled at the institution; and
- g) if it offers tuition support to external students at degree level, ensures that such students are registered with the UK degree awarding body.

"**Business day**" means any day other than Saturday or Sunday, a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom to which the notice is sent, Christmas Day or Good Friday.

"**civil partner**" means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004 (and any reference to a civil partner is to be read accordingly);

"**conviction**" means conviction for a criminal offence in the UK or any other country.

"**curtailment**" in relation to the curtailment of a person's leave to enter or remain in the UK, means curtailing their leave such that they will have a shorter period of, or no, leave remaining.

"degree level study" means a course which leads to a recognised United Kingdom degree at bachelor's level or above, or an equivalent qualification at level 6 or above of the revised National Qualifications Framework, or levels 9 or above of the Scottish Credit and Qualifications Framework.

Under Part 8 of these Rules, **"post-graduate level study"** means a course at level 7 or above of the revised National Qualifications Framework or Qualifications and Credit Framework, or level 11 or above of the Scottish Credit and Qualifications Framework, which leads to a recognised United Kingdom postgraduate degree at Master's level or above, or an equivalent qualification at the same level.

"foundation degree" means a programme of study which leads to a qualification awarded by an English higher education institution with degree awarding powers which is at a minimum of level 5 on the revised National Qualifications Framework, or awarded on a directly equivalent basis in the devolved administrations.

"primary degree" means a qualification obtained from a course of degree level study, which did not feature as an entry requirement a previous qualification obtained from degree level study. An undergraduate degree is a primary degree. A Masters degree that has a Bachelor degree as an entry requirement is not a primary degree.

A **"UK recognised body"** is an institution that has been granted degree awarding powers by either a Royal Charter, an Act of Parliament or the Privy Council. For the purposes of these Rules we will consider the Foundation Programme Office, South London Local Education and Training Board and the Yorkshire and Humber Strategic Health Authority as equivalent to UK Recognised Bodies.

A **"UK listed body"** is an institution that is not a UK recognised body but which provides full courses that lead to the award of a degree by a UK recognised body.

"EEA national" has the meaning given in regulation 2(1) of the 2006 EEA Regulations.

"an external student" is a student studying for a degree from a UK degree awarding body without any requirement to attend the UK degree awarding body's premises or a UK Listed Body's premises for lectures and tutorials.

"United Kingdom passport" bears the meaning it has in the Immigration Act 1971. **"a UK Bachelors degree"** means

- (a) A programme of study or research which leads to the award, by or on behalf of a university, college or other body which is authorised by Royal Charter or by or under an Act of Parliament to grant degrees, of a qualification designated by the awarding institution to be of Bachelors degree level; or
- (b) A programme of study or research, which leads to a recognised award for the purposes of section 214(2)(c) of the Education Reform Act 1988, of a qualification designated by the awarding institution to be of Bachelors degree level.

"Immigration Officer" includes a Customs Officer acting as an Immigration Officer.

"Multiple Entry work permit employment" is work permit employment where the person concerned does not intend to spend a continuous period in the United Kingdom in work permit employment.

"public funds" means

- (a) housing under Part VI or VII of the Housing Act 1996 and under Part II of the Housing Act 1985, Part I or II of the Housing (Scotland) Act 1987, Part II of the Housing (Northern Ireland) Order 1981 or Part II of the Housing (Northern Ireland) Order 1988;
- (b) attendance allowance, severe disablement allowance, carer's allowance and disability living

allowance under Part III of the Social Security Contribution and Benefits Act 1992; income support, council tax benefit and housing benefit under Part VII of that Act; a social fund payment under Part VIII of that Act; child benefit under Part IX of that Act; income based jobseeker's allowance under the Jobseekers Act 1995, income related allowance under Part 1 of the Welfare Reform Act 2007 (employment and support allowance) state pension credit under the State Pension Credit Act 2002; or child tax credit and working tax credit under Part 1 of the Tax Credits Act 2002;

- (c) attendance allowance, severe disablement allowance, carer's allowance and disability living allowance under Part III of the Social Security Contribution and Benefits (Northern Ireland) Act 1992; income support, council tax benefit and, housing benefit under Part VII of that Act; a social fund payment under Part VIII of that Act; child benefit under Part IX of that Act; income based jobseeker's allowance under the Jobseekers (Northern Ireland) Order 1995 or income related allowance under Part 1 of the Welfare Reform Act (Northern Ireland) 2007;
- (d) Universal Credit under Part 1 of the Welfare Reform Act 2012 or Personal Independence Payment under Part 4 of that Act;
- (e) Universal Credit, Personal Independence Payment or any domestic rate relief under the Northern Ireland Welfare Reform Act 2013;
- (f) a council tax reduction under a council tax reduction scheme made under section 13A of the Local Government Finance Act 1992 in relation to England or Wales or a council tax reduction pursuant to the Council Tax Reduction (Scotland) Regulations 2012 or the Council Tax Reduction (State Pension Credit) (Scotland) Regulations 2012.

"settled in the United Kingdom" means that the person concerned:

- (a) is free from any restriction on the period for which he may remain save that a person entitled to an exemption under Section 8 of the Immigration Act 1971 (otherwise than as a member of the home forces) is not to be regarded as settled in the United Kingdom except in so far as Section 8(5A) so provides; and
- (b) is either:
 - (i) ordinarily resident in the United Kingdom without having entered or remained in breach of the immigration laws; or
 - (ii) despite having entered or remained in breach of the immigration laws, has subsequently entered lawfully or has been granted leave to remain and is ordinarily resident.

"a parent" includes

- (a) the stepfather of a child whose father is dead and the reference to stepfather includes a relationship arising through civil partnership;
- (b) the stepmother of a child whose mother is dead and the reference to stepmother includes a relationship arising through civil partnership and;
- (c) the father as well as the mother of an illegitimate child where he is proved to be the father;
- (d) an adoptive parent, where a child was adopted in accordance with a decision taken by the competent administrative authority or court in a country whose adoption orders are recognised by the United Kingdom or where a child is the subject of a de facto adoption in accordance with the requirements of paragraph 309A of these Rules (except that an adopted child or a child who is the subject of a de facto adoption may not make an application for leave to enter or remain in order to accompany, join or remain with an adoptive parent under paragraphs 297-303);

- (e) in the case of a child born in the United Kingdom who is not a British citizen, a person to whom there has been a genuine transfer of parental responsibility on the ground of the original parent(s)' inability to care for the child.

"date of application" means the date of application determined in accordance with paragraph 30 or 34G of these rules as appropriate.

"a valid application" means an application made in accordance with the requirements of Part 1 of these Rules.

"refugee leave" means limited leave granted pursuant to paragraph 334 or 335 of these rules and has not been revoked pursuant to paragraph 339A or 339B of these rules.

"humanitarian protection" means limited leave granted pursuant to paragraph 339C of these rules and has not been revoked pursuant to paragraph 339G or 339H of these rules.

'Protection claim' has the same meaning as in section 82(2)(a) of the Nationality, Immigration and Asylum Act 2002

"a period of imprisonment" referred to in these rules has the same meaning as set out in section 38(2) of the UK Borders Act 2007.

"Overstayed" or "Overstaying" means the applicant has stayed in the UK beyond the latest of:

- (i) the time limit attached to the last period of leave granted, or
- (ii) beyond the period that his leave was extended under sections 3C or 3D of the Immigration Act 1971.

"intention to live permanently with the other" or "intend to live together permanently" means an intention to live together, evidenced by a clear commitment from both parties that they will live together permanently in the UK immediately following the outcome of the application in question or as soon as circumstances permit thereafter. However, where an application is made under Appendix Armed Forces the words "in the UK" in this definition do not apply."

Where an application is made under Appendix FM and the sponsor is a permanent member of HM Diplomatic Service, or a comparable UK-based staff member of the British Council, the Department for International Development or the Home Office on a tour of duty outside the UK, the words "in the UK" in this definition do not apply.

"present and settled" or "present and settled in the UK" means that the person concerned is settled in the United Kingdom, and, at the time that an application under these Rules is made, is physically present here or is coming here with or to join the applicant and intends to make the United Kingdom their home with the applicant if their application is successful.

Where the person concerned is a British Citizen or settled in the UK and is:

- (i) a member of HM Forces serving overseas, or
- (ii) a permanent member of HM Diplomatic Service, or a comparable UK-based staff member of the British Council, the Department for International Development or the Home Office on a tour of duty outside the UK, and the applicant has provided the evidence specified in paragraph 26A of Appendix FM-SE,

then for the purposes of Appendix FM the person is to be regarded as present and settled in the UK, and in paragraphs R-LTRP.1.1.(a) and R-ILRP.1.1.(a) of Appendix FM the words "and their partner must be in the UK" are to be disregarded.

For the purposes of an application as a fiancé(e) or proposed civil partner under paragraphs 289AA to

295 or Appendix FM, an EEA national who holds a document certifying permanent residence issued under the 2006 EEA Regulations is to be regarded as present and settled in the UK.

"sponsor" means the person in relation to whom an applicant is seeking leave to enter or remain as their spouse, fiancée, civil partner, proposed civil partner, unmarried partner, same-sex partner or dependent relative, as the case may be, under paragraphs 277 to 295O or 317 to 319 or the person in relation to whom an applicant is seeking entry clearance or leave as their partner or dependent relative under Appendix FM.

"overcrowded" means overcrowded within the meaning of the Housing Act 1985, the Housing (Scotland) Act 1987 or the Housing (Northern Ireland) Order 1988 (as appropriate).

"working illegally" means working in breach of conditions of leave or working when in the UK without valid leave where such leave is required.

"in breach of immigration laws" means without valid leave where such leave is required, or in breach of the conditions of leave.

"adequate" and **"adequately"** in relation to a maintenance and accommodation requirement shall mean that, after income tax, national insurance contributions and housing costs have been deducted, there must be available to the family the level of income that would be available to them if the family was in receipt of income support."

"occupy exclusively" in relation to accommodation shall mean that part of the accommodation must be for the exclusive use of the family.

"must not be leading an independent life" "must not be leading an independent life" or "is not leading an independent life" means that the applicant does not have a partner as defined in Appendix FM; is living with their parents (except where they are at boarding school, college or university as part of their full-time education); is not employed full-time (unless aged 18 years or over); is wholly or mainly dependent upon their parents for financial support (unless aged 18 years or over); and is wholly or mainly dependent upon their parents for emotional support. Where a relative other than a parent may act as the sponsor of the applicant, references in this definition to "parents" shall be read as applying to that other relative."

"prohibited degree of relationship" has the same meaning as in the Marriage Act 1949, the Marriage (Prohibited Degrees of Relationship) Act 1986 and the Civil Partnership Act 2004.

"visa nationals" are the persons specified in Appendix 1 to these Rules who need a visa for the United Kingdom.

"non-visa nationals" are persons who are not specified in Appendix 1 to these Rules.

"specified national" is a person specified in Appendix 3 to these Rules who seeks leave to enter the United Kingdom for a period of more than 6 months.

"employment" unless the contrary intention appears, includes paid and unpaid employment, paid and unpaid work placements undertaken as part of a course or period of study, self-employment and engaging in business or any professional activity.

"the Human Rights Convention" means the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950 as it has effect for the time being in relation to the United Kingdom.

"Biometric immigration document" means a document recording biometric information issued in accordance with regulations under section 5 of the UK Borders Act 2007.

"immigration employment document" means a work permit or any other document which relates to employment and is issued for the purpose of these Rules or in connection with leave to enter or

remain in the United Kingdom.

"Employment as a Doctor in Training" means employment in a medical post or training programme which has been approved by the Postgraduate Medical Education and Training Board, or employment in a postgraduate training programme in dentistry.

"these Rules" means these immigration rules (HC 395) made under section 3(2) of the Immigration Act 1971.

A **'refugee'** is a refugee as defined in regulation 2 of The Refugee or Person in Need of International Protection (Qualification) Regulation 2006.

...

"Notice of liability for removal" means a notice given that a person is or will be liable for removal under section 10 of the Immigration and Asylum Act 1999 as amended by the Immigration Act 2014. For cases that pre-date the Immigration Act 2014 coming into force, "notice of liability for removal" refers to a decision to remove in accordance with section 10 of the Immigration and Asylum Act 1999, a decision to remove an illegal entrant by way of directions under paragraphs 8 to 10 of Schedule 2 to the Immigration Act 1971 or a decision to remove in accordance with section 47 of the Immigration, Asylum and Nationality Act 2006.

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

...

In paragraph 320(7B) and paragraph 320(11) of these Rules:

"Deception" means making false representations or submitting false documents (whether or not material to the application), or failing to disclose material facts.

"Illegal Entrant" has the same definition as in section 33(1) of the Immigration Act 1971.

In paragraph 320(22) and 322(12) of these Rules, and in paragraphs S-EC.2.3., S-LTR.2.3. and S-ILR.2.3. of Appendix FM to these Rules.

...

"administrative review" means a review conducted in accordance with Appendix AR of these Rules;

"eligible decision" means a decision eligible for administrative review as referred to in paragraphs AR3.2, AR4.2 or AR5.2 of Appendix AR of these Rules;

"working day" means a business day in the part of the UK in which the applicant resides or (as the case may be) is detained.

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)".

Part 1: Rules 15, 18-20, 24, 27, 28, 30, 34, 35, 39

Common Travel Area

15. The United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland collectively form a common travel area. A person who has been examined for the purpose of immigration control at the point at which he entered the area does not normally require leave to enter any other part of it. However certain persons subject to the Immigration (Control of Entry through the Republic of Ireland) Order 1972 (as amended) who enter the United Kingdom through the Republic of Ireland do require leave to enter. This includes:

- (i) those who merely passed through the Republic of Ireland;
- (ii) persons requiring visas;
- (iii) persons who entered the Republic of Ireland unlawfully;
- (iv) persons who are subject to directions given by the Secretary of State for their exclusion from the United Kingdom on the ground that their exclusion is conducive to the public good;
- (v) persons who entered the Republic from the United Kingdom and Islands after entering there unlawfully or overstaying their leave.

Returning Residents

18. A person seeking leave to enter the United Kingdom as a returning resident may be admitted for settlement provided the Immigration Officer is satisfied that the person concerned:

- (i) had indefinite leave to enter or remain in the United Kingdom when he last left; and
- (ii) has not been away from the United Kingdom for more than 2 years; and
- (iii) did not receive assistance from public funds towards the cost of leaving the United Kingdom; and
- (iv) now seeks admission for the purpose of settlement.

[18A] Those who qualify for admission to the United Kingdom as returning residents in accordance with paragraph 18 do not need a visa to enter the UK.

19. A person who does not benefit from the preceding paragraph by reason only of having been away from the United Kingdom too long may nevertheless be admitted as a returning resident if, for example, he has lived here for most of his life.

19A. Where a person who has indefinite leave to enter or remain in the United Kingdom accompanies, on a tour of duty abroad, a spouse, civil partner, unmarried partner or same-sex partner who is a member of HM Forces serving overseas, or a permanent member of HM Diplomatic Service, or a comparable United Kingdom-based staff member of the British Council, or a staff member of the Department for International Development who is a British Citizen or is settled in the United Kingdom, sub-paragraphs (ii) and (iii) of paragraph 18 shall not apply.

20. The leave of a person whose stay in the United Kingdom is subject to a time limit lapses on his going to a country or territory outside the common travel area if the leave was given for a period of six months or less or conferred by a visit visa. In other cases, leave lapses on the holder remaining outside the United Kingdom for a continuous period of more than two years. A person whose leave has lapsed and who returns after a temporary absence abroad within the period of this earlier leave has no claim to admission as a returning resident. His application to re-enter the United Kingdom should be considered in the light of all the relevant circumstances. The same time limit and any conditions attached will normally be reimposed if he meets the requirements of these Rules, unless he is seeking admission in a different capacity from the one in which he was last given leave to enter or remain.

Entry clearance

24. The following must produce to the Immigration Officer a valid passport or other identity document endorsed with a United Kingdom entry clearance issued to him for the purpose for which he seeks entry:

(i) a visa national;

(ii) any other person (other than British Nationals (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) who is seeking entry for a period exceeding six months or is seeking entry for a purpose for which prior entry clearance is required under these Rules.

Such a person will be refused leave to enter if he has no such current entry clearance. Any other person who wishes to ascertain in advance whether he is eligible for admission to the United Kingdom may apply for the issue of an entry clearance.

27. An application for entry clearance is to be decided in the light of the circumstances existing at the time of the decision, except that an applicant will not be refused an entry clearance where entry is sought in one of the categories contained in paragraphs 296-316 *or paragraph EC-C of Appendix FM* solely on account of his attaining the age of 18 years between receipt of his application and the date of the decision on it.

28. An applicant for an entry clearance must be outside the United Kingdom and Islands at the time of the application. An applicant for an entry clearance who is seeking entry as a visitor must apply to a post designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Subject to paragraph 28A, any other application must be made to the post in the country or territory where the applicant is living which has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant. Where there is no such post the applicant must apply to the appropriate designated post outside the country or territory where he is living.

30. An application for an entry clearance is not made until any fee required to be paid under the Consular Fees Act 1980 (including any Regulations or Orders made under that Act) has been paid.

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

A34. An application for leave to remain in the United Kingdom under these Rules must be made either by completing the relevant online application process in accordance with paragraph A34 (iii) by using the specified application form in accordance with paragraphs 34A to 34D.

- (i) "The relevant online application process" means the application process accessible via the visas and immigration pages of the gov.uk website and identified there as relevant for applications for leave to remain for the immigration category under which the applicant wishes to apply.
- (ii) "Specified" in relation to the relevant online application process means specified in the online guidance accompanying that process.
- (iii) When the application is made via the relevant online application process:
 - (a) any specified fee in connection with the application must be paid in accordance with the method specified;
 - (b) if the online application process requires the applicant to provide biometric information that information must be provided as specified;
 - (c) if the online application process requires supporting documents to be submitted by post then any such documents specified as mandatory must be submitted in the specified manner within 15 working days of submission of the online application;
 - (d) if the online application process requires the applicant to make an appointment to attend a public enquiry office of the United Kingdom Border Agency the applicant must, within 45 working days of submission of the online application, make and attend that appointment; and comply with any specified requirements in relation to the provision of biometric information and documents specified as mandatory; and
 - (e) the requirements of paragraph 34BB must be met.

Notice of invalidity will be given in writing and deemed to be received on the date it is given, except where it is sent by post, in which case it will be deemed to be received on the second day after it was posted excluding any day which is not a business day.

34. An application form is specified when:

- (i) it is posted on the visas and immigration pages of the gov.uk website,
- (ii) it is marked on the form that it is a specified form for the purpose of the immigration rules,
- (iii) it comes into force on the date specified on the form and/or in any accompanying announcement.

34A. Where an application form is specified, the application or claim must also comply with the following requirements:

- (i) Subject to paragraph A34 the application or claim must be made using the specified form,
- (ii) any specified fee in connection with the application or claim must be paid in accordance with the method specified in the application form, separate payment form and/or related guidance notes, as applicable,
- (iii) any section of the form which is designated as mandatory in the application form and/or related guidance notes must be completed as specified,
- (iv) if the application form and/or related guidance notes require the applicant to provide biometric information, such information must be provided as specified,
- (v) an appointment for the purposes stated in subparagraph (iv) must be made and must take place by the dates specified in any subsequent notification by the Secretary of State following receipt of the application, or as agreed by the Secretary of State,
- (vi) where the application or claim is made by post or courier, or submitted in person:
 - (a) the application or claim must be accompanied by the photographs and documents specified as mandatory in the application form and/or related guidance notes,
 - (ab) those photographs must be in the same format specified as mandatory in the application form and/or related guidance notes, and
 - (b) the form must be signed by the applicant, and where applicable, the applicant's spouse, civil partner, same-sex partner or unmarried partner, save that where the applicant is under the age of eighteen, the form may be signed by the parent or legal guardian of the applicant on his behalf, and
- (vii) the requirements of paragraph 34BB must be met.

34B. Where an application form is specified, it must be sent by prepaid post to the Home Office at the address specified on the application form for such purposes, or submitted in person at a Home Office premium service centre. Application types permitted in person at a Home Office premium service centre are listed on the visa and immigration pages of the gov.uk website.

- (i) an application may be sent by courier to the Home Office at the address specified on the application form for such purposes if it is an application for:
 - (a) limited or indefinite leave to remain as a sole representative, retired person of independent means or as a Tier 1 Migrant or Tier 2 Migrant;
 - (b) limited leave to remain for work permit employment, as a seasonal agricultural worker, for the purpose of employment under the Sectors- Based Scheme.
 - (c) Indefinite leave to remain as a businessperson, investor or innovator, or
 - (d) limited leave to remain as a Tier 5 (Temporary Worker) Migrant.

- (ii) an applicant may submit an application online where this option is available on the visas and immigration pages of the gov.uk website
- (iii) application may not be sent by pre-paid post, and must be made online, if it is an application for a Tier 2, Tier 4 or Tier 5 (Temporary Worker) sponsorship licence.

34BB. (1) Where an application for limited or indefinite leave to remain in the United Kingdom is made by completing the relevant online application process, the supporting documents submitted in accordance with paragraph A34(iii)(c) must be accompanied by an original, valid passport, travel document or (unless the applicant is a Points Based System Migrant) national identity card issued to the applicant and to any dependant included in the application, unless sub-paragraph (3) applies.

(2) Where an application for limited or indefinite leave to remain in the United Kingdom is made, for which an application form is specified, the application must be accompanied by an original, valid passport, travel document or (unless the applicant is a Points Based System Migrant) national identity card issued to the applicant and to any dependant included in the application, unless sub-paragraph (3) applies.

(3) This sub-paragraph applies where:

(i) the application is made:

(a) for limited leave to enable access to public funds pending an application under paragraph 289A of, or under Part 6 of Appendix Armed Forces or section DVILR of Appendix FM to, these Rules; or

(b) by a stateless person or the family member of a stateless person under Part 14 of these Rules; or

(c) by a person in the UK with refugee status or humanitarian protection; or

(ii) the passport, travel document or national identity card of the applicant or (as the case may be) the dependant is held by the Home Office at the date of application; or

(iii) the Secretary of State considers that there is a good reason beyond the control of the applicant or (as the case may be) the dependant, given in or with the application, why an original, valid passport, travel document or (unless the applicant is a Points Based System Migrant) national identity card cannot be provided, e.g. where it has been permanently lost and there is no functioning national government to issue a replacement.

(4) Where sub-paragraph (3)(iii) applies, the Secretary of State may require the person to provide alternative satisfactory evidence of his or her identity and nationality.

(5) Where sub-paragraph (3)(ii) or (iii) applies to the applicant or (as the case may be) to a dependant included in the application, the requirement in subparagraph (1) or (as the case may be) (2) continues to apply to any other person included in the application.

34C. Where an application or claim in connection with immigration for which an application form is specified does not comply with the requirements in paragraph 34A, or where an application for leave to remain in the United Kingdom is made by completing the relevant online application process, and does not comply with the requirements of paragraph A34(iii), the following applies:

(a) Subject to sub-paragraph (b), the application will be invalid and will not be considered. Notice of invalidity will be given in writing and deemed to be received on the date it is given, except where it is sent by post, in which case it will be deemed to be received on the second day after it was posted excluding any day which is not a business day, unless the contrary is proved.

(b) The decision maker may contact the applicant or their representative in writing and give the applicant a single opportunity to correct any omission or error which renders the application invalid, save for failure to enrol their biometric information. The amended application and/or any requested documents must be received at the address specified in the request within 10 business days of the date on which the request was sent

34D. Where the main applicant wishes to include applications or claims by any members of his family as his dependants on his own application form, the applications or claims of the dependants must meet the following requirements or they will be invalid and will not be considered:

- (i) the application form must expressly permit the applications or claims of dependants to be included, and
- (ii) such dependants must be:
 - (a) the spouse, civil partner, unmarried or same-sex partner of the main applicant; and/or
 - (b) children of the main applicant aged under 18; and/or
 - (c) where permitted by the Rules for the immigration category under which the applicant wishes to apply, any dependants of the main applicant aged 18 or over.

Variation of Applications or Claims for Leave to Remain

34E. If a person wishes to vary the purpose of an application or claim for leave to remain in the United Kingdom and an application form is specified for such new purpose or paragraph A34 applies, the variation must comply with the requirements of paragraph 34A or paragraph A34 (as they apply at the date the variation is made) as if the variation were a new application or claim, or the variation will be invalid and will not be considered.

34F. Any valid variation of a leave to remain application will be decided in accordance with the immigration rules in force at the date such variation is made.

Determination of the date of an application or claim (or variation of an application or claim) for leave for remain

34G. For the purposes of these rules, the date on which an application or claim (or a variation in accordance with paragraph 34E) is made is as follows:

- (i) where the application form is sent by post by Royal Mail, the date of posting,
- (ii) where the application form is submitted in person, the date on which it is accepted by a Home Office premium service centre,
- (iii) where the application form is sent by courier or other postal service provider, the date on which it is delivered to the Home Office, or
- (iv) where the application is made via the online application process, on the date on which the online application is submitted.

34H. Applications or claims for leave to remain made before 29 February 2008 for which a form was prescribed prior to 29 February 2008 shall be subject to the forms and procedures as in force on the date on which the application or claim was made.

34I. Where an application or claim is made no more than 21 days after the date on which a form is specified under the immigration rules and on a form that was permitted for such application or claim immediately prior to the date of such specification, the application or claim shall be deemed to have been made on the specified form.

Withdrawn applications or claims for leave to remain in the United Kingdom

34J. Where a person whose application or claim for leave to remain is being considered requests the return of his passport for the purpose of travel outside the common travel area, the application for leave shall, provided it has not already been determined, be treated as withdrawn on the date that request is received by the Home Office.

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

Specified forms and procedures in connection with applications for administrative review

Notice of an eligible decision

34L. (1) Unless sub-paragraph (2) applies, written notice must be given to a person of any eligible decision. The notice given must:

- (a) include or be accompanied by a statement of reasons for the decision to which it relates, and
- (b) include information on how to apply for an administrative review and the time limit for making an application.

(2) Sub-paragraph (1) does not apply where the eligible decision is a grant of leave to remain.

Making an application

34M. An application for administrative review must be made in accordance with the requirements set out in paragraphs 34N to 34S. If it is not it will be invalid and will not be considered.

34N. (1) Unless sub-paragraph (2) applies only one valid application for administrative review may be made in respect of an eligible decision.

(2) A further application for administrative review in respect of an eligible decision may be made where the outcome of the administrative review is as set out in paragraph AR2.2(d) of Appendix AR of these Rules.

34O. The application must be made in accordance with paragraph 34U or paragraph 34V.

34P. The application must be made in relation to an eligible decision.

34Q. The application must be made:

(a) when the administrative review is in relation to an eligible decision on an in country application, as defined in paragraph AR3.2 of Appendix AR, while the applicant is in the UK;

(b) when the administrative review is in relation to an eligible decision made on arrival at the United Kingdom, as defined in paragraph AR4.2 of Appendix AR, while the applicant is in the UK, unless the eligible decision is made in the Control Zone (as defined in Appendix AR of these Rules), in which case administrative review may not be applied for and will not be considered until after the applicant has left or been removed from the Control Zone;

(c) when the administrative review is in relation to an eligible decision for entry clearance, as defined in paragraph AR5.2 of Appendix AR, while the applicant is outside the UK.

34R. (1) The application must be made:

(a) where the applicant is in the UK and not detained, no more than 14 calendar days after receipt by the applicant of the notice of the eligible decision;

(b) where the applicant is in detention in the UK under the Immigration Acts, no more than 7 calendar days after receipt by the applicant of the notice of the eligible decision;

(c) where the applicant is overseas, no more than 28 calendar days after receipt by the applicant of the notice of the eligible decision; or

(d) where the eligible decision is a grant of leave to remain, no more than 14 calendar days after receipt by the applicant of the biometric immigration document which states the length and conditions of leave granted.

(2) An application which is permitted under paragraph 34N(2) of these Rules must be made within the relevant time limit stated in paragraph 34R(1) as if it was an initial application, and the notice of the outcome of the previous administrative review will be treated as the notice of the eligible decision.

(3) But the application may be accepted out of time if the Secretary of State is satisfied that it would be unjust not to waive the time limit and that the application was made as soon as reasonably practicable.

(4) For the purposes of this paragraph, where notice of the eligible decision or outcome of the previous administrative review is sent by post to an address:

(a) in the UK, it is deemed to have been received, unless the contrary is shown, on the second working day after the day on which it was posted;

(b) outside the UK, it is deemed to have been received, unless the contrary is shown, on the twenty-eighth day after the day on which it was posted.

(5) For provision about when an application is made see paragraph 34W.

34S. An applicant may only include an application on behalf of a dependant of the applicant if that dependant:

(a) was a dependant on the application which resulted in the eligible decision; or

(b) was previously granted leave to enter or remain as a dependant of the applicant and that leave is being cancelled at the same time as that of the applicant.

Notice of invalidity

34T.(1) A notice informing an applicant that their application is invalid will be given in writing (which includes, where an email address has been provided for correspondence, by electronic mail).

(2) A notice of invalidity is deemed to have been received, unless the contrary is shown:

(a) where it is sent by post to an address in the UK, on the second working day after the day on which it was posted;

(b) where it is sent by post to an address outside the UK, on the twenty-eighth day after the day on which it was posted;

(c) where it is sent by electronic mail, on the day on which it is sent; and

(d) where it is given in person, on the day on which it is given.

Online applications for administrative review

34U. (1) In this paragraph:

"the relevant online application process" means the application process accessible via the gov.uk website and identified there as relevant for applications for administrative review; and

"specified" in relation to the relevant online application process means specified in the online guidance accompanying that process.

(2) An application may be made online by completing the relevant online application process.

(3) Where an application is made online:

(a) any specified fee in connection with the application must be paid in accordance with the method specified;

(b) any section of the online application which is designated as mandatory must be completed as specified; and

(c) documents specified as mandatory on the online application or in the related guidance must be submitted either electronically with the online application and in the specified manner, where this is permitted, or received by post and in the specified manner no more than 7 working days after the day on which the online application is submitted.

Postal applications for administrative review

34V. (1) An application may be made by post or courier in accordance with this paragraph.

(2) Where an application is made by post or courier:

(a) it must be made on the application form as specified within the meaning of paragraph 34 (but see paragraph 34Y);

(b) any specified fee in connection with the application must be paid in accordance with the method specified in the application form, separate payment form or related guidance notes (as applicable);

(c) any section of the application form which is designated as mandatory in the form itself or related guidance notes must be completed;

(d) the form must be signed by the applicant or their representative;

(e) the application must be accompanied by the documents specified as mandatory in the application form or related guidance notes; and

(f) the application must be sent to the address specified on the form.

Determining the date of an application

34W. (1) An application for administrative review is made:

(a) where it is made by post in accordance with paragraph 34V, on the marked date of posting;

(b) where it is made by courier in accordance with paragraph 34V, on the date on which it is delivered; and

(c) where it is made online in accordance with paragraph 34U, on the date on which it is submitted.

(2) Accepting an application has been made does not mean that it is accepted as being valid.

Withdrawal of applications

34X. (1) An application which may only be brought from within the UK and has not been determined will be treated as withdrawn if the applicant requests the return of their passport for the purpose of travel outside the UK.

(2) An application which may only be brought from within the UK and which has not been determined will be treated as withdrawn if the applicant leaves the UK.

(3) The application for administrative review may be withdrawn by the applicant. A request to withdraw an application must be made in writing to the Home Office at the address provided for that purpose on the visas and immigration pages of the gov.uk website. The application will be treated as withdrawn on the date on which the request is received.

Transitional arrangements for specified forms used in postal and courier applications

34Y. Where an application is made no more than 21 days after the date on which a form is specified (within the meaning of paragraph 34) and on a form that was specified immediately prior to the date of the new specification, the application is deemed to have been made on the specified form (and is therefore not to be treated as invalid by reason only of being made on the "wrong" form).

Undertakings

35. A sponsor of a person seeking leave to enter or remain in the United Kingdom may be asked to give an undertaking in writing to be responsible for that person's maintenance, accommodation and (as appropriate) personal care for the period of any leave granted, including any further variation or for a period of 5 years from date of grant where indefinite leave to enter or remain is granted. Under the Social Security Administration Act 1992 and the Social Security Administration (Northern Ireland) Act 1992, the Department of Social Security or, as the case may be, the Department of Health and Social Services in Northern Ireland, may seek to recover from the person giving such an undertaking any income support paid to meet the needs of the person in respect of whom the undertaking has been given. Under the Immigration and Asylum Act 1999 the Home Office may seek to recover from the person giving such an undertaking amounts attributable to any support provided under section 95 of the Immigration and Asylum Act 1999 (support for asylum seekers) to, or in respect of, the person in respect of whom the undertaking has been given. Failure by the sponsor to maintain that person in accordance with the undertaking, may also be an offence under section 105 of the Social Security

Administration Act 1992 and/or under section 108 of the Immigration and Asylum Act 1999 if, as a consequence, asylum support and/or income support is provided to, or in respect of, that person.

Medical

...

A39. Any person making an application for entry clearance to come to the UK for more than six months or as a fiancé(e) or proposed civil partner applying for leave to enter under Section EC-P:Entry clearance as a partner under Appendix FM, having been present in a country listed in Appendix T for more than six months immediately prior to their application, must present, at the time of application, a valid medical certificate issued by a medical practitioner listed in Appendix T Part 2 confirming that they have undergone screening for active pulmonary tuberculosis and that this tuberculosis is not present in the applicant.

B39. Applicants seeking leave to enter as a returning resident under paragraph 19 of these rules, having been absent from the United Kingdom for more than two years are also subject to the requirements in paragraph A39.

C39. Where a person has lawfully been present in a country not mentioned in Appendix T for more than six months and they are applying for entry clearance as in A39 in a country in Appendix T but have not been in that country or any other country mentioned in Appendix T for more than six months immediately before making their application, they will not be required to produce a medical certificate showing they are free from active pulmonary TB. This does not alter the discretionary powers as in paragraph 39 below.

39. The Entry Clearance Officer has the same discretion as an Immigration Officer to refer applicants for entry clearance for medical examination and the same principles will apply to the decision whether or not to issue an entry clearance.

...

Specified documents

39B. (a) Where these Rules state that specified documents must be provided, that means documents specified in these Rules as being specified documents for the route under which the applicant is applying. If the specified documents are not provided, the applicant will not meet the requirement for which the specified documents are required as evidence.

- (b) Where these Rules specify documents that are to be provided, those documents are considered to be specified documents, whether or not they are named as such, and as such are subject to the requirements in (c) to (f) below.
- (c) If the Entry Clearance Officer or Secretary of State has reasonable cause to doubt the genuineness of any document submitted by an applicant which is, or which purports to be, a specified document under these Rules, and having taken reasonable steps to verify the document is unable to verify that it is genuine, the document will be discounted for the purposes of this application.
- (d) Specified documents must be originals, not copies, except where stated otherwise.
- (e) Specified documents must contain, or the applicant must provide, full contact details to allow each document to be verified.
- (f) Where any specified documents provided are not in English or Welsh, the applicant must provide the original and a full translation that can be independently verified by the Entry Clearance Officer, Immigration Officer or the Secretary of State.

The translation must be dated and include:

- (i) confirmation that it is an accurate translation of the original document;
- (ii) the full name and original signature of the translator or an authorised official of the translation company;
- (iii) the translator or translation company's contact details; and

(iv) if the applicant is applying for leave to remain or indefinite leave to remain, certification by a qualified translator and details of the translator or translation company's credentials.

Indefinite leave to enter or remain

39C (a) An applicant for indefinite leave to enter or remain must, unless the applicant provides a reasonable explanation, comply with any request made by the Secretary of State to attend an interview.

(b) If the decision-maker has reasonable cause to doubt (on examination or interview or on any other basis) that any document submitted by an applicant for the purposes of satisfying the requirements of Appendix KoLL of these Rules was genuinely obtained, that document may be discounted for the purposes of the application.

(c) Where sub-paragraph (b) applies, the decision-maker may request the applicant to provide additional evidence of knowledge of the English language and/or knowledge about life in the UK (as set out in paragraphs 3.2(b)(ii) and 3.3 of Appendix KoLL) for the purposes of demonstrating sufficient knowledge of the English language requirement and sufficient knowledge about life in the United Kingdom in accordance with Appendix KoLL.

(d) A decision-maker will not request evidence under sub-paragraph (c) where the decision-maker does not anticipate that the supply of that evidence will lead to a grant of leave to enter or remain in the United Kingdom because the application may be refused for other reasons.

Power to interview a person with limited leave to enter or remain

39D. For the purpose of assessing whether any of the grounds of curtailment under paragraphs 245DE(c), 245EE(c), 276BD1, 276BN1, 276BS1, 323 (other than 323(vii)), 323A, 323B, or 323C), apply the Secretary of State may request a person who holds limited leave to enter or remain in the UK to:

- (i) provide additional information and evidence to the Home Office at the address specified in the request within 28 calendar days of the date the request is sent; and/or
- (ii) attend an interview.

Part 2 - Requirements for leave to enter as a general visitor

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

- (i) is genuinely seeking entry as a general visitor for a limited period as stated by him, not exceeding 6 months 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 (as their child, spouse or partner) has entry clearance; and
- (ii) intends to leave the United Kingdom at the end of the period of the visit as stated by him; and does not intend to live for extended periods in the United Kingdom through frequent or successive visits; and
- (iii) does not intend to take employment in the United Kingdom; and
- (iv) does not intend to produce goods or provide services within the United Kingdom, including the selling of goods or services direct to members of the public; and
- (v) Save to the extent provided by paragraph 43A, does not intend to undertake a course of study; and
- (vi) will maintain and accommodate himself and any dependants adequately out of resources available to him without recourse to public funds or taking employment; or will, with any dependants, be maintained and/or accommodated adequately by relatives or friends who can demonstrate they are able and intend to do so, and are legally present in the United Kingdom, or will be at the time of their visit; and
- (vii) can meet the cost of the return or onward journey; and

(viii) is not a child under the age of 18.

(ix) does not intend to do any of the activities provided for in paragraphs 46G (iii), 46M (iii) or 46S (iii); and

(x) does not, during his visit, intend to marry or form a civil partnership, or to give notice of marriage or civil partnership; and

(xi) does not intend to receive private medical treatment during his visit; and

(xii) is not in transit to a country outside the common travel area.

(xiii) where he is seeking leave to enter as a general visitor to take part in archaeological excavations, provides a letter from the director or organiser of the excavation stating the length of their visit and, where appropriate, what arrangements have been made for their accommodation and maintenance.

...

Leave to enter as a general visitor

42. A person seeking leave to enter to the United Kingdom as a general visitor may be admitted for a period not exceeding 6 months, or not exceeding 12 months in the case of a person accompanying an academic visitor (as their child, spouse or partner), subject to a condition prohibiting employment and recourse to public funds, provided the Immigration Officer is satisfied that each of the requirements of paragraph 41 is met.

Permitted study as a general visitor

43A. (1) A person who has been granted leave to enter the United Kingdom under paragraph 42 may undertake a course of study to the extent permitted by this paragraph.

(2) A course of study is permitted under this paragraph if it-

(a) does not exceed 30 days in duration (either alone or taken together with any other course and whether continuous or otherwise); and

(b) is a recreational course; but

(c) is not an English language course.

(3) A course of study is also permitted under this paragraph if it-

(a) does not exceed 30 days in duration (either alone or taken together with any other course and whether continuous or otherwise); and

(b) is provided by an institution which is-

(i) the holder of a Sponsor licence for Tier 4 of the Points-Based System,

(ii) the holder of valid accreditation from Accreditation UK, the Accreditation Body for Language Services (ABLS), the British Accreditation Council (BAC), or the Accreditation Service for International Colleges (ASIC),

(iii) the holder of a valid and satisfactory full institutional inspection, review or audit by the Bridge Schools Inspectorate, the Education and Training Inspectorate, Estyn, Education Scotland, the Independent Schools Inspectorate, Office for Standards in Education, the Quality Assurance Agency for Higher Education, the Schools Inspection Service or the Education and Training Inspectorate Northern Ireland, or

(iv) an overseas higher education institution offering only part of its programmes in the United Kingdom, holding its own national accreditation and offering programmes that are an equivalent level to a United Kingdom degree.

(4) For the purposes of this paragraph a "recreational course" is one which a person undertakes purely for leisure purposes.

Part 5 - Persons with United Kingdom ancestry

Requirements for leave to enter on the grounds of United Kingdom ancestry

186. The requirements to be met by a person seeking leave to enter the United Kingdom on the grounds of his United Kingdom ancestry are that he:

(i) is a Commonwealth citizen; and

(ii) is aged 17 or over; and

(iii) is able to provide proof that one of his grandparents was born in the United Kingdom and Islands and that any such grandparent is the applicant's blood grandparent or grandparent by reason of an adoption recognised by the laws of the United Kingdom relating to adoption; and

(iv) is able to work and intends to take or seek employment in the United Kingdom; and

(v) will be able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and

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

Leave to enter the United Kingdom on the grounds of United Kingdom ancestry

187. A person seeking leave to enter the United Kingdom on the grounds of his United Kingdom ancestry may be given leave to enter for a period not exceeding 5 years, subject to a condition on study as set out in Part 15 of these Rules, 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 on the grounds of United Kingdom ancestry

188. Leave to enter the United Kingdom on the grounds of United Kingdom ancestry 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 an extension of stay on the grounds of United Kingdom ancestry

189. The requirements to be met by a person seeking an extension of stay on the grounds of United Kingdom ancestry are that:

(i) he is able to meet each of the requirements of paragraph 186 (i)-(v); and

(ii) he was admitted to the United Kingdom on the grounds of United Kingdom ancestry in accordance with paragraphs 186 to 188 or has been granted an extension of stay in this capacity; and

(iii) he is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded.

Extension of stay on the grounds of United Kingdom ancestry

190. An extension of stay on the grounds of United Kingdom ancestry may be granted for a period not exceeding 5 years, subject to a condition on study as set out in Part 15 of these Rules, provided the Secretary of State is satisfied that each of the requirements of paragraph 189 is met.

Refusal of extension of stay on the grounds of United Kingdom ancestry

191. An extension of stay on the grounds of United Kingdom ancestry is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 189 is met.

Indefinite leave to remain on the grounds of United Kingdom ancestry

192. Indefinite leave to remain may be granted, on application, to a Commonwealth citizen with a United Kingdom born grandparent provided the applicant:

- (i) meets the requirements of paragraph 186 (i)-(v); and
- (ii) has spent a continuous period of 5 years lawfully in the United Kingdom in this capacity; and
- (iii) has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL; and
- (iv) does not fall for refusal under the general grounds for refusal; and
- (v) is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded; and
- (vi) provides the specified documents in paragraph 192-SD to evidence the reason for the absences set out in paragraph 128A, where the absence was due to a serious or compelling reason.

192-SD Specified documents

The specified documents referred to in paragraph 192(vi) are:

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

Part 6A - Points-based system

245AAA General requirements for indefinite leave to remain

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

(a) "continuous period of 5 years lawfully in the UK" means, subject to paragraphs 245CD, 245GF and 245HF, residence in the United Kingdom for an unbroken period with valid leave, and for these purposes a period shall not be considered to have been broken where:

- (i) the applicant has been absent from the UK for a period of 180 days or less in any of the five consecutive 12 month periods preceding the date of the application for leave to remain, except that any absence from the UK for the purpose of assisting with the Ebola crisis which began in West Africa in 2014 shall not count towards the 180 days, if the applicant provides evidence that this was the purpose of the absence(s) and that his Sponsor agreed to the absence(s);
- (ii) the applicant has existing limited leave to enter or remain upon their departure and return except that where that leave expired no more than 28 days prior to a further application for entry clearance, that period and any period pending the determination of an application made within that 28 day period shall be disregarded; and
- (iii) the applicant has any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period disregarded.

(b) Except for periods when the applicant had leave as a Tier 1 (General) Migrant, a Tier 1 (Investor) Migrant, a Tier 1 (Entrepreneur) Migrant, a Tier 1 (Exceptional Talent) Migrant, a highly skilled migrant, a Businessperson, an Innovator, an Investor, a self-employed lawyer or a writer, composer or artist, the applicant must have been employed in the UK continuously throughout the five years, under the terms of their Certificate of Sponsorship, work permit or in the employment for which they were given leave to enter or remain, except that any breaks in employment in which they applied for leave as a Tier 2 Migrant, or, under Tier 5 Temporary Worker (International Agreement) Migrant as a private servant in a diplomatic household, where in the latter case they applied to enter the UK before 6 April 2012, to work for a new employer shall be disregarded, provided this is within 60 days of the end of their employment with their previous employer or Sponsor.

(c) Except for periods where the applicant had leave as a Tier 1(Investor) Migrant, a Tier 1(Entrepreneur) Migrant, a Tier 1(Exceptional Talent) Migrant or a highly skilled migrant, any

absences from the UK during the five years must have been for a purpose that is consistent with the applicant's basis of stay here, including paid annual leave, or for serious or compelling reasons.

245AA. Documents not submitted with applications

(a) Where Part 6A or any appendices referred to in Part 6A state that specified documents must be provided, the Entry Clearance Officer, Immigration Officer or the Secretary of State will only consider documents that have been submitted with the application, and will only consider documents submitted after the application where they are submitted in accordance with subparagraph (b).

(b) If the applicant has submitted specified documents in which:

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

(ii) A document is in the wrong format (for example, if a letter is not on letterhead paper as specified); or

(iii) A document is a copy and not an original document; or

(iv) A document does not contain all of the specified information;

the Entry Clearance Officer, Immigration Officer or the Secretary of State may contact the applicant or his representative in writing, and request the correct documents. The requested documents must be received at the address specified in the request within 7 working days of the date of the request.

(c) Documents will not be requested where a specified document has not been submitted (for example an English language certificate is missing), or where the Entry Clearance Officer, Immigration Officer or the Secretary of State does not anticipate that addressing the omission or error referred to in subparagraph (b) will lead to a grant because the application will be refused for other reasons.

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

(i) in the wrong format; or

(ii) which is a copy and not an original document; or

(iii) which does not contain all of the specified information, but the missing information is verifiable from:

(1) other documents submitted with the application,

(2) the website of the organisation which issued the document, or

(3) the website of the appropriate regulatory body;

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

Tier 1 (Entrepreneur) Migrants

245D. Purpose of this route and meaning of business

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

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

(i) a sole trader,

- (ii) a partnership, or
 - (iii) a company registered in the UK.
- (c) Where paragraphs 245D to 245DF and paragraphs 35 to 53 of Appendix A, refer to investing funds in a business or businesses, or to money remaining available to the applicant until such time as it is spent for the purposes of his business or businesses:
- (i) 'Available' means that the funds are:
 - (1) in the applicant's own possession,
 - (2) in the financial accounts of a UK incorporated business of which he is the director, or
 - (3) available from the third party or parties named in the application under the terms of the declaration(s) referred to in paragraph 41-SD(b) of Appendix A.
 - (ii) 'Invested' or 'spent' excludes spending on:
 - (1) the applicant's own remuneration,
 - (2) buying the business from a previous owner, where the money ultimately goes to that previous owner (irrespective of whether it is received or held directly or indirectly by that previous owner) rather than into the business being purchased (This applies regardless of whether the money is channelled through the business en route to the previous owner, for example by means of the applicant or business purchasing 'goodwill' or other assets which were previously part of the business.),
 - (3) investing in other businesses, and
 - (4) any spending which is not directly for the purpose of establishing or running the applicant's own business or businesses.

245DA. Entry to the UK

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

245DB. Requirements for entry clearance

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

Requirements:

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

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

(f) Where the applicant is being assessed under Table 4 of Appendix A, the Entry Clearance Officer must be satisfied that:

(i) the applicant genuinely intends and is able to establish, take over or become a director of one or more businesses in the UK within the next six months;

(ii) the applicant genuinely intends to invest the money referred to in Table 4 of Appendix A in the business or businesses referred to in (i);

(iii) that the money referred to in Table 4 of Appendix A is genuinely available to the applicant, and will remain available to him until such time as it is spent for the purposes of his business or businesses.

(iv) that the applicant does not intend to take employment in the United Kingdom other than under the terms of paragraph 245DC;

(g) The applicant must provide a business plan, setting out his proposed business activities in the UK and how he expects to make his business succeed.

(h) In making the assessment in (f), the Entry Clearance Officer will assess the balance of probabilities. The Entry Clearance Officer may take into account the following factors:

(i) the evidence the applicant has submitted;

(ii) the viability and credibility of the source of the money referred to in Table 4 of Appendix A;

(iii) the viability and credibility of the applicant's business plan and market research into their chosen business sector;

(iv) the applicant's previous educational and business experience (or lack thereof);

(v) the applicant's immigration history and previous activity in the UK; and

(vi) any other relevant information.

(i) Where the applicant has had entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator in the 12 months immediately before the date of application, and is being assessed under Table 5 of Appendix A, the Entry Clearance Officer must be satisfied that:

(i) the applicant has established, taken over or become a director of one or more genuine businesses in the UK, and has genuinely operated that business or businesses while he had leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator; and

(ii) the applicant has genuinely invested the money referred to in Table 5 of Appendix A into one or more genuine businesses in the UK to be spent for the purpose of that business or businesses; and

(iii) the applicant genuinely intends to continue operating one or more businesses in the UK; and

(iv) the applicant does not intend to take employment in the United Kingdom other than under the terms of paragraph 245DE.

(j) In making the assessment in (i), the Entry Clearance Officer will assess the balance of probabilities. The Entry Clearance Officer may take into account the following factors:

(i) the evidence the applicant has submitted;

- (ii) the viability and credibility of the source of the money referred to in Table 5 of Appendix A;
- (iii) the credibility of the financial accounts of the business or businesses;
- (iv) the credibility of the applicant's business activity in the UK, including when he had leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator;
- (v) the credibility of the job creation for which the applicant is claiming points in Table 5 of Appendix A;
- (vi) if the nature of the business requires mandatory accreditation, registration and/or insurance, whether that accreditation, registration and/or insurance has been obtained; and
- (vii) any other relevant information.

(k) The Entry Clearance Officer reserves the right to request additional information and evidence to support the assessment in (f) or (i), and to refuse the application if the information or evidence is not provided. Any requested documents must be received by the Entry Clearance Officer at the address specified in the request within 28 calendar days of the date of the request.

(l) If the Entry Clearance Officer is not satisfied with the genuineness of the application in relation to a points-scoring requirement in Appendix A, those points will not be awarded.

(m) The Entry Clearance Officer may decide not to carry out the assessment in (f) or (i) if the application already falls for refusal on other grounds, but reserves the right to carry out this assessment in any reconsideration of the decision.

(n) The applicant must, unless he provides a reasonable explanation, comply with any request made by the Entry Clearance Officer to attend for interview.

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

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

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

245DC. Period and conditions of grant

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

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
- (iii) no employment other than working for the business(es) the applicant has established, joined or taken over "but working for such business(es) does not include anything undertaken by the applicant pursuant to a contract of service or apprenticeship, whether express or implied and whether oral or written, with another business,
- (iv) no employment as a professional sportsperson (including as a sports coach), and
- (v) study subject to the condition set out in Part 15 of these Rules where the applicant is 18 years of age or over at the time their leave is granted, or will be aged 18 before their period of limited leave expires.

245DD. Requirements for leave to remain

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, except that paragraph 322(10) shall not apply, and must not be an illegal entrant.
- (b) The applicant must have a minimum of 75 points under paragraphs 35 to 53 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 1 to 15 of Appendix B.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (e) The applicant who is applying for leave to remain must have, or have last been granted, entry clearance, leave to enter or remain:
 - (i) as a Highly Skilled Migrant,
 - (ii) as a Tier 1 (General) Migrant,
 - (iii) as a Tier 1 (Entrepreneur) Migrant,
 - (iv) as a Tier 1 (Investor) Migrant,
 - (v) as a Tier 1 (Graduate Entrepreneur) Migrant
 - (vi) as a Tier 1 (Post-Study Work) Migrant,
 - (vii) as a Businessperson,
 - (viii) as an Innovator,
 - (ix) as an Investor,
 - (x) as a Participant in the Fresh Talent: Working in Scotland Scheme,
 - (xi) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
 - (xii) as a Postgraduate Doctor or Dentist,
 - (xiii) as a Self-employed Lawyer,
 - (xiv) as a Student,
 - (xv) as a Student Nurse,
 - (xvi) as a Student Re-sitting an Examination,
 - (xvii) as a Student Writing Up a Thesis,
 - (xviii) as a Work Permit Holder,
 - (xix) as a Writer, Composer or Artist,
 - (xx) as a Tier 2 Migrant
 - (xxi) as a Tier 4 Migrant, or
 - (xxii) as a Prospective Entrepreneur

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

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

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

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

(h) Where the applicant is being assessed under Table 4 of Appendix A, the Secretary of State must be satisfied that:

(i) The applicant must provide a business plan, setting out his proposed business activities in the UK and how he expects to make his business succeed.

(j) In making the assessment in (h), the Secretary of State will assess the balance of probabilities. The Secretary of State may take into account the following factors:

- (i) the evidence the applicant has submitted;
- (ii) the viability and credibility of the source of the money referred to in Table 4 of Appendix A;
- (iii) the viability and credibility of the applicant's business plans and market research into their chosen business sector;
- (iv) the applicant's previous educational and business experience (or lack thereof);
- (v) the applicant's immigration history and previous activity in the UK;
- (vi) where the applicant has already registered in the UK as self-employed or as the director of a business, and the nature of the business requires mandatory accreditation, registration and/or insurance, whether that accreditation, registration and/or insurance has been obtained; and
- (vii) any other relevant information.

(k) Where the applicant has, or was last granted, leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator, and is being assessed under Table 5 of Appendix A, the Secretary of State must be satisfied that:

- (i) the applicant has established, taken over or become a director of one or more genuine businesses in the UK, and has genuinely operated that business or businesses while he had leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator; and
- (ii) the applicant has genuinely invested the money referred to in Table 5 of Appendix A into one or more genuine businesses in the UK to be spent for the purpose of that business or businesses; and
- (iii) the applicant genuinely intends to continue operating one or more businesses in the UK; and
- (iv) the applicant does not intend to take employment in the United Kingdom other than under the terms of paragraph 245DE.

(l) In making the assessment in (k), the Secretary of State will assess the balance of probabilities. The Secretary of State may take into account the following factors:

- (i) the evidence the applicant has submitted;
- (ii) the viability and credibility of the source of the money referred to in Table 5 of Appendix A;

- (iii) the credibility of the financial accounts of the business or businesses;
- (iv) the credibility of the applicant's business activity in the UK, including when he had leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator;
- (v) the credibility of the job creation for which the applicant is claiming points in Table 5 of Appendix A;
- (vii) if the nature of the business requires mandatory accreditation, registration and/or insurance, whether that accreditation, registration and/or insurance has been obtained; and
- (viii) any other relevant information.

(m) The Secretary of State reserves the right to request additional information and evidence to support the assessment in (h) or (k), and to refuse the application if the information or evidence is not provided. Any requested documents must be received by the Secretary of State at the address specified in the request within 28 calendar days of the date of the request.

(n) If the Secretary of State is not satisfied with the genuineness of the application in relation to a points-scoring requirement in Appendix A, those points will not be awarded.

(o) The Secretary of State may decide not to carry out the assessment in (h) or (k) if the application already falls for refusal on other grounds, but reserves the right to carry out this assessment in any reconsideration of the decision.

(p) The applicant must, unless he provides a reasonable explanation, comply with any request made by the Secretary of State to attend for interview.

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

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

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

245DE. Period, conditions and curtailment of grant

(a) Leave to remain will be granted:

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

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

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

(i) no recourse to public funds,

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

(iii) no employment, other than working for the business or businesses which he has established, joined or taken over "but working for such business(es) does not include anything undertaken by the applicant pursuant to a contract of service or apprenticeship, whether express or implied and whether oral or written, with another business, and

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

(v) study subject to the condition set out in Part 15 of these Rules where the applicant is 18 years of age or over at the time their leave is granted, or will be aged 18 before their period of limited leave expires.

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

(i) within 6 months of the date specified in paragraph (d), the applicant has not done one or more of the following things:

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

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

(3) registered as a director of an existing business, or

(ii) the funds referred to in the relevant sections of Appendix A cease to be available to him, except where they have been spent for the purposes of his business or businesses.

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

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

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

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

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

245DF. Requirements for indefinite leave to remain

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

Requirements:

(a) DELETED

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

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

(d) The applicant must have demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL.

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

(f) The Secretary of State must be satisfied that:

(i) the applicant has established, taken over or become a director of one or more genuine businesses in the UK, and has genuinely operated that business or businesses while he had leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator; and

(ii) the applicant has genuinely invested the money referred to in Table 6 of Appendix A into one or more businesses in the UK to be spent for the purpose of that business or businesses; and

(iii) the applicant genuinely intends to continue operating one or more businesses in the UK.

(g) In making the assessment in (f), the Secretary of State will assess the balance of probabilities. The Secretary of State may take into account the following factors:

- (i) the evidence the applicant has submitted;
 - (ii) the viability and credibility of the source of the money referred to in Table 6 of Appendix A;
 - (iii) the credibility of the financial accounts of the business or businesses;
 - (iv) the credibility of the applicant's business activity in the UK, including when he had leave as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator;
 - (v) the credibility of the job creation for which the applicant is claiming points in Table 6 of Appendix A;
 - (vii) if the nature of the business requires mandatory accreditation, registration and/or insurance, whether that accreditation, registration and/or insurance has been obtained; and
 - (viii) any other relevant information.
- (h) The Secretary of State reserves the right to request additional information and evidence to support the assessment in (f), and to refuse the application if the information or evidence is not provided. Any requested documents must be received by the Secretary of State at the address specified in the request within 28 calendar days of the date of the request.
- (i) If the Secretary of State is not satisfied with the genuineness of the application in relation to a points-scoring requirement in Appendix A, those points will not be awarded.
- (j) The Secretary of State may decide not to carry out the assessment in (f) if the application already falls for refusal on other grounds, but reserves the right to carry out this assessment in any reconsideration of the decision.
- (k) The applicant must, unless he provides a reasonable explanation, comply with any request made by the Secretary of State to attend for interview.”

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

245HD. Requirements for leave to remain

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) the applicant must:
 - (i) have, or have last been granted, entry clearance, leave to enter or leave to remain as:
 - (1) a Tier 1 Migrant,
 - (2) a Tier 2 Migrant,
 - (3) a Highly Skilled Migrant,
 - (4) an Innovator,
 - (5) a Jewish Agency Employee,
 - (6) a Member of the Operational Ground Staff of an Overseas-owned Airline,
 - (7) a Minister of Religion, Missionary or Member of a Religious Order,
 - (8) a Participant in the Fresh Talent: Working in Scotland Scheme,
 - (9) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
 - (10) a Qualifying Work Permit Holder,

- (11) a Representative of an Overseas Business
- (12) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
- (13) a Tier 5 (Temporary Worker) Migrant, or
- (14) the partner of a Relevant Points Based System Migrant if the relevant Points Based System Migrant is a Tier 4 Migrant,

or

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

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

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

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

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

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

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

(i) The applicant must have completed and passed:

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

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

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

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

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

(1) his last grant of leave, or

(2) a period of continuous leave which includes his last grant of leave, (for these purposes continuous leave will not be considered to have been broken if any of the circumstances set out in paragraphs 245AAA(a)(i) to (iii) of these Rules apply.).

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

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

(vi) If the applicant:

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

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

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

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

- (1) The applicant's name,
- (2) the course title/award,
- (3) the course duration (except in the case of a degree certificate), and
- (4) unless the course is a PhD course, the date of course completion and pass (or the date of award in the case of a degree certificate).

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

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

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

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

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

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

(k) Except where the period of engagement recorded by the Certificate of Sponsorship used in support of such entry clearance or leave to remain was three months or less, the applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, unless:

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

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

(iii) the applicant will be paid a gross annual salary (as recorded by the Certificate of Sponsorship Checking Service entry, and including such allowances as are specified as acceptable for this purpose in paragraph 79 of Appendix A) of £155,300 or higher.

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

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

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

(o) if the sponsor is a limited company, the applicant must not own more than 10% of its shares, unless the gross annual salary (as recorded by the Certificate of Sponsorship Checking Service entry, and including such allowances as are specified as acceptable for this purpose in paragraph 79 of Appendix A) is £155,300 or higher.

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

(q) If the applicant is applying as a Tier 2 (Minister of Religion) Migrant, the Secretary of State must be satisfied that the applicant:

(i) genuinely intends to undertake, and is capable of undertaking, the role recorded by the Certificate of Sponsorship Checking Service; and

(ii) will not undertake employment in the United Kingdom other than under the terms of paragraph 245HE(d)(iii).

(r) To support the assessment in paragraph 245HD(q), the Secretary of State may:

(i) request additional information and evidence, and refuse the application if the information or evidence is not provided. Any requested documents must be received by the Home Office at the address specified in the request within 28 calendar days of the date the request is sent, and

(ii) request the applicant attends an interview, and refuse the application if the applicant fails to comply with any such request without providing a reasonable explanation.

(s) If the Secretary of State is not satisfied following the assessment in paragraph 245HD(q), no points will be awarded under paragraphs 85 to 92A of Appendix A.

(t) The Secretary of State may decide not to carry out the assessment in paragraph 245HD(q) if the application already falls for refusal on other grounds, but reserves the right to carry out this assessment in any reconsideration of the decision.

245HE. Period and conditions of grant

(a) Leave to remain will be granted for whichever of the following is the shortest:

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

(ii) 5 years if the applicant is applying as a Tier 2 (General) Migrant, or

(iii) 3 years if the applicant is applying as a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, or

(iv) except where (b) applies, the difference between the continuous period of leave that the applicant has already been granted (notwithstanding any breaks between periods of leave of up to 28 days) as a Tier 2 Migrant (other than as a Tier 2 (Intra-Company Transfer) Migrant), and 6 years.

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

(b) The 6 year restriction set out in (a)(iv) will not apply if the applicant:

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

(1) a Tier 2 (General) Migrant,

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

(3) a Tier 2 (Sportsperson) Migrant,

(4) a Jewish Agency Employee,

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

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

(7) a Qualifying Work Permit Holder, or

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

(ii) has not been granted entry clearance as a Tier 2 (General)

Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant under the Rules in place from 6 April 2011, and

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

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

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

(2) supplementary employment,

(3) voluntary work,

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

(iv) study subject to the condition set out in Part 15 of these Rules where the applicant is 18 years of age or over at the time their leave is granted, or will be aged 18 before their period of limited leave expires.

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

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

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

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

Tier 5 (Temporary Worker) Migrants

245ZM. Purpose of this route and definitions

(a) This route is for certain types of temporary worker whose entry helps to satisfy cultural, charitable, religious or international objectives including volunteering and job shadowing.

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

a migrant has "consecutive engagements" if:

(i) more than one Certificate of Sponsorship reference number has been allocated in respect of the migrant,

(ii) there is no gap of more than 14 days between any of the periods of engagement, and

(iii) all the Certificate of Sponsorship Checking Service references record that the migrant is being sponsored in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route.

"Period of engagement" means a period beginning with the employment start date as recorded on the Certificate of Sponsorship Checking Service entry which relates to the Certificate of Sponsorship

reference number for which the migrant was awarded points under paragraphs 105 to 111 of Appendix A, and ending on the employment end date as recorded in the same entry.

245ZN. Entry clearance

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

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

(i) the migrant is not a visa national,

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

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

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

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

245ZO. Requirements for entry clearance or leave to enter

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

Requirements:

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

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

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

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

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

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

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

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

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

(i) a diplomat, or

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

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

(i) The Entry Clearance Officer or Immigration Officer must be satisfied that:

(i) the applicant genuinely intends to undertake, and is capable of undertaking, the role recorded by the Certificate of Sponsorship Checking Service; and

(ii) the applicant will not undertake employment in the United Kingdom other than under the terms of paragraph 245ZP(f)(iii); and

(iii) where the Certificate of Sponsorship Checking Service records the applicant as being sponsored in the international agreement sub-category of Tier 5 (Temporary Workers) to work as a private servant in a diplomatic household, the applicant's employer intends to pay the applicant, throughout their employment in the UK, at least the National Minimum Wage rate to which they are entitled by the law in force at the relevant time.

(ii) will not undertake employment in the United Kingdom other than under the terms of paragraph 245ZP(f)(iii).

(j) To support the assessment in paragraph 245ZO(i), the Entry Clearance Officer or Immigration Officer may:

(i) request additional information and evidence, and refuse the application if the information or evidence is not provided. Any requested documents must be received by the Home Office at the address specified in the request within 28 calendar days of the date the request is sent, and

(ii) request the applicant attends an interview, and refuse the application if the applicant fails to comply with any such request without providing a reasonable explanation.

(k) If the Entry Clearance Officer or Immigration Officer is not satisfied following the assessment in paragraph 245ZO(i), no points will be awarded under paragraphs 105 to 112 of Appendix A.

(l) The Entry Clearance Officer or Immigration Officer may decide not to carry out the assessment in paragraph 245ZO(i) if the application already falls for refusal on other grounds, but reserves the right to carry out this assessment in any reconsideration of the decision.

245ZP. Period and conditions of grant

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

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

(ii) 3 months

whichever is the shorter.

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

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

(ii) 3 months

whichever is the shorter.

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

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

(ii) 12 months

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

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

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

(ii) 2 years,

whichever is the shorter.

(e) Where paragraph 245ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored as a Contractual Service Supplier, or Independent Professional in the International Agreement sub-category of the Tier 5 (Temporary Worker) Migrant route, entry clearance will be granted for:

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

(ii) 6 months,

whichever is the shorter.

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

(i) no recourse to public funds,

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

(iii) no employment except:

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

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

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

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

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

(v) study subject to the condition set out in Part 15 of these Rules where the applicant is 18 years of age or over at the time their leave is granted, or will be aged 18 before their period of limited leave expires.

Tier 4 (General) Student

245ZT. Purpose of this route

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

245ZU. Entry clearance

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

245ZV. Requirements for entry clearance

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

Requirements:

- (a) The applicant must not fall for refusal under the General Grounds for Refusal.
- (b) The applicant must have a minimum of 30 points under paragraphs 113 to 120 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 10 to 14 of Appendix C.
 - (ca) The applicant must, if required to do so on examination or interview, be able to demonstrate without the assistance of an interpreter English language proficiency of a standard to be expected from an individual who has reached the standard specified in a Confirmation of Acceptance for Studies assigned in accordance with Appendix A paragraph 118(b) (for the avoidance of doubt, the applicant will not be subject to a test at the standard set out in Appendix A, paragraph 118(b).
 - (da) if the applicant wishes to undertake a course:
 - (i) undergraduate or postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 of these Rules, or
 - (ii) undergraduate or postgraduate studies leading to a taught Masters degree or other postgraduate qualification in one of the disciplines listed in paragraph 2 of Appendix 6 of these Rules, or
 - (iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at an institution of higher education where this forms part of an overseas postgraduate qualification

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

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

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

(1) an institution with a Tier 4 sponsor licence,

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) Architecture;
 - (2) Medicine;
 - (3) Dentistry;
 - (4) Law, where the applicant has completed a course at degree level in the UK and is progressing to:
 - a. a law conversion course validated by the Joint Academic Stage Board in England and Wales, a Masters in Legal Science (MLegSc) in Northern Ireland, or an accelerated graduate LLB in Scotland; or
 - b. the Legal Practice Course in England and Wales, the Solicitors Course in Northern Ireland, or a Diploma in Professional Legal Practice in Scotland; or
 - c. the Bar Professional Training Course in England and Wales, or the Bar Course in Northern Ireland."
 - (5) Veterinary Medicine & Science; or
 - (6) Music at a music college that is a member of Conservatoires UK (CUK).
- (gb) If the applicant has completed a course leading to the award of a PhD in the UK, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 8 years in the UK as a Tier 4 (General) Migrant, or as a Student.
- (h) The applicant must be at least 16 years old.
- (i) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.
- (j) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the UK.
- (k) The Entry Clearance Officer must be satisfied that the applicant is a genuine student.

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	7 days
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-session course, less than 7 days before the start of the course, entry clearance will be granted with immediate effect.

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

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

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

(i) no recourse to public funds,

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

(iii) no employment except:

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

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

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

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

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

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

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

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

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

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

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

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

(7) until such time as a decision is received from the Home Office on an application which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor and which is made

following successful completion of course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council and while the applicant has extant leave, and any appeal or administrative review against that decision has been determined, employment with the Tier 2 Sponsor, in the role for which they assigned the Certificate of Sponsorship to the Tier 4 migrant,

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

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

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

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

until such time as a decision is received from the UK Border Agency on that application and any appeal or administrative review against that decision has been determined,

provided that the migrant is not self-employed other than under the conditions of (8) above, or employed as a Doctor or Dentist in Training other than under the conditions of (v) below, professional sportsperson (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a permanent full time vacancy other than under the conditions of (7) above, or a vacancy on a recognised Foundation Programme or as a sabbatical officer; and

(iv) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies Checking Service records as the migrant's sponsor, unless:

(a) the migrant is studying at an institution which is a partner institution of the migrant's sponsor; or

(b) until such time as a decision is received from the Home Office on an application which is supported by a Confirmation of Acceptance for Studies assigned by a sponsor with Tier 4 Sponsor status and which is made while the applicant has extant leave, and any appeal or administrative review against that decision has been determined, the migrant is studying at the sponsor with Tier 4 Sponsor status that the Confirmation of Acceptance for Studies Checking Service records as having assigned such Confirmation of Acceptance for Studies to the migrant; or

(c) the study is supplementary study, and

(2) study on the course, or courses where a pre-sessional is included, for which the Confirmation of Acceptance for Studies was assigned, unless the student:

(a) has yet to complete the course for which the Confirmation of Acceptance for Studies was assigned; and

(b) begins studying a new course at their sponsor institution, instead of the course for which the Confirmation of Acceptance for Studies was assigned, that represents academic progress (as set out paragraph 120A (b) of Appendix A to these Rules) from the course(s) preceding the migrant's last grant of leave, and:

the new course is either:

1. at a higher or the same level as the course for which the Confirmation of Acceptance for Studies was assigned; or

2. at a lower level than the course for which the Confirmation of Acceptance for Studies was assigned, provided that the requirements and conditions of the migrant's grant of leave as at the date of commencement of the new course are the same requirements and conditions to which the

migrant's leave would have been subject had he made an application to study at that lower level under the Rules in force at the time of commencement of the new course, and

(3) subject to (1) and (2) above, study on a course (or period of research) to which paragraph 245ZV(da) applies only if the migrant holds a valid Academic Technology Approval Scheme certificate issued prior to the commencement of the course (or period of research) that specifically relates to the course (or area of research) and to the institution at which the migrant undertakes such course (or period of research). Where:

(a) the migrant's course (or research) completion date reported on the Confirmation of Acceptance for Studies is postponed or delayed for a period of more than three calendar months, or if there are any changes to the course contents (or the research proposal), the migrant must apply for a new Academic Technology Approval Scheme certificate within 28 calendar days; and

(b) the migrant begins studying a new course (or period of research) as permitted in (2) above and the new course (or area of research) is of a type specified in paragraph 245ZV(da), the migrant must obtain an Academic Technology Approval Scheme clearance certificate relating to the new course (or area of research) prior to commencing it.

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

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

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

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

245ZX. Requirements for leave to remain

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

Requirements:

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

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

(i) as a Tier 4 (General) Student,

(ii) as a Tier 4 (Child) Student,

(iii) as a Tier 1 (Post-study Work) Migrant,

(iv) as a Tier 2 Migrant,

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

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

(vii) as a Postgraduate Doctor or Dentist,

(ix) as a Student,

(x) as a Student Nurse,

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

- (xii) as a Student Writing-Up a Thesis,
- (xiii) as a Student Union Sabbatical Officer, or
- (xiv) as a Work Permit Holder.

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

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

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

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

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

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

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

the applicant must hold a valid Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office which relates to the course, or area of research, that the applicant will be taking and at the institution at which the applicant wishes to undertake it and must provide a print-out of his Academic Technology Approval Scheme clearance certificate to show that these requirements have been met. Applicants applying for leave to remain under the doctorate extension scheme are not required to meet the conditions of paragraph 245ZX (ea) if they continue to study on a course (or period of research) for which they have a valid Academic Technology Approval Scheme certificate.

(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 sponsor licence,

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Architecture;

(2) Medicine;

(3) Dentistry;

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

a. a law conversion course validated by the Joint Academic Stage Board in England and Wales, a Masters in Legal Science (MLegSc) in Northern Ireland, or an accelerated graduate LLB in Scotland; or

b. the Legal Practice Course in England and Wales, the Solicitors Course in Northern Ireland, or a Diploma in Professional Legal Practice in Scotland; or

c. the Bar Professional Training Course in England and Wales, or the Bar Course in Northern Ireland."

(5) Veterinary Medicine & Science; or

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

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

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

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

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

(l) Unless applying for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme, the applicant must be applying for leave to remain for the purpose of studies which

commence within 28 days of the expiry of the applicant's current leave to enter or remain or, where the applicant has overstayed, within 28 days of when that period of overstaying began.

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

(n) Where the applicant is applying for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme:

(i) leave to remain as a Tier 4 (General) Student on the doctorate extension scheme must not have previously been granted;

(ii) the applicant must be following a course leading to the award of a PhD;

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

(iv) the date of the application must be within 60 days of the expected end date of a course leading to the award of a PhD.

(o) the Secretary of State must be satisfied that the applicant is a genuine student.

245ZY. Period and conditions of grant

(a) Subject to paragraphs (b), (ba) 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	7 days
Postgraduate doctor or dentist	1 month	1 month

Notes

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

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

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

(ba) Leave to remain as a Tier 4 (General) Student on the doctorate extension scheme will be granted for 12 months, commencing on the expected end date of a course leading to the award of a PhD.

(bb) Leave to remain as a Tier 4 (General) Student on the doctorate extension scheme will not be subject to the conditions on the limited time that can be spent as a Tier 4 (General) Student or as a student, specified at 245ZX (hb).

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

(i) no recourse to public funds,

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

(iii) no employment except:

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

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

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

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

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

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

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

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

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

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

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

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

(7) until such time as a decision is received from the UK Border Agency on an application which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor and which is made following successful completion of course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the

Higher Education Funding Council for Wales or the Scottish Funding Council and while the applicant has extant leave, and any appeal or administrative review against that decision has been determined, employment with the Tier 2 Sponsor institution, in the role for which they assigned the Certificate of Sponsorship to the Tier 4 migrant,

(8) self-employment, providing the migrant has made an application for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant which is supported by an endorsement from a qualifying Higher Education Institution and which is made following successful completion of a course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council and while the applicant has extant leave, until such time as a decision is received from the UK Border Agency on an application and any appeal or administrative review against that decision has been determined,

provided that the migrant is not self-employed other than under the conditions of (8) above, or employed as a Doctor or Dentist in Training other than under the conditions of (v) below, a professional sportsperson (including a sports coach) or an entertainer, and provided that the migrant's employment would not fill a permanent full time vacancy other than under the conditions of (7) above, or a vacancy on a recognised Foundation Programme or as a sabbatical officer.

(9) where, during the current period of leave, the migrant has successfully completed a PhD at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council, and has been granted leave to remain as a Tier 4 (General) Student on the doctorate extension scheme or has made a valid application for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme but has not yet received a decision from the UK Border Agency on that application, there will be no limitation on the type of employment that may be taken, except for:

(a) no employment as a Doctor or Dentist in Training other than under the conditions of (v) below;

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

(iv) no study except:

(1) study at the institution that the Confirmation of Acceptance for Studies Checking Service records as the migrant's sponsor, unless:

(a) the migrant is studying at an institution which is a partner institution of the migrant's sponsor; or

(b) until such time as a decision is received from the Home Office on an application which is supported by a Confirmation of Acceptance for Studies assigned by a sponsor with Tier 4 Sponsor status and which is made while the applicant has extant leave, and any appeal or administrative review against that decision has been determined, the migrant is studying at the sponsor with Tier 4 Sponsor status that the Confirmation of Acceptance for Studies Checking Service records as having assigned such Confirmation of Acceptance for Studies to the migrant; or

(c) the study is supplementary study, and

(2) study on the course, or courses where a pre-sessional is included, for which the Confirmation of Acceptance for Studies was assigned, unless the student:

(a) has yet to complete the course for which the Confirmation of Acceptance for Studies was assigned; and

(b) begins studying a new course at their sponsor institution, instead of the course for which the Confirmation of Acceptance for Studies was assigned, that represents academic progress (as set out paragraph 120A (b) of Appendix A to these Rules) on the course(s) preceding the migrant's last grant of leave, and:

the new course is either:

1. at a higher or the same level as the course for which the Confirmation of Acceptance for Studies was assigned; or

2. at a lower level than the course for which the Confirmation of Acceptance for Studies was assigned, provided that the requirements and conditions of the migrant's grant of leave as at the date of commencement of the new course are the same requirements and conditions to which the migrant's leave would have been subject had he made an application to study at that lower level under the Rules in force at the time of commencement of the new course, and

(3) subject to (1) and (2), study on a course (or period of research) to which paragraph 245ZX(ea) applies only if the migrant holds a valid Academic Technology Approval Scheme certificate issued prior to the commencement of the course (or period of research) that specifically relates to the course (or area of research) and to the institution at which the migrant undertakes such course (or period of research). Where:

(a) the migrant's course (or research) completion date reported on the Confirmation of Acceptance for Studies is postponed or delayed for a period of more than three calendar months, or if there are any changes to the course contents (or the research proposal), the migrant must apply for a new Academic Technology Approval Scheme certificate within 28 calendar days.

(b) the migrant begins studying a new course (or period of research) as permitted in (2) above and the new course (or period of research) is of a type specified in paragraph 245ZX(ea), the migrant must obtain an Academic Technology Approval Scheme clearance certificate from the CounterProliferation Department of the Foreign and Commonwealth Office relating to the new course (or area of research) prior to commencing it.

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

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

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

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

Part 7

Long residence in the United Kingdom

276A. For the purposes of paragraphs 276B to 276D and 276ADE(1).

(a) "continuous residence" means residence in the United Kingdom for an unbroken period, and for these purposes a period shall not be considered to have been broken where an applicant is absent from the United Kingdom for a period of 6 months or less at any one time, provided that the applicant in question has existing limited leave to enter or remain upon their departure and return, but shall be considered to have been broken if the applicant:

(i) has been removed under Schedule 2 of the 1971 Act, section 10 of the 1999 Act, has been deported or has left the United Kingdom having been refused leave to enter or remain here; or

(ii) has left the United Kingdom and, on doing so, evidenced a clear intention not to return; or

(iii) left the United Kingdom in circumstances in which he could have had no reasonable expectation at the time of leaving that he would lawfully be able to return; or

(iv) has been convicted of an offence and was sentenced to a period of imprisonment or was directed to be detained in an institution other than a prison (including, in particular, a hospital or an institution for young offenders), provided that the sentence in question was not a suspended sentence; or

(v) has spent a total of more than 18 months absent from the United Kingdom during the period in question.

(b) "lawful residence" means residence which is continuous residence pursuant to:

(i) existing leave to enter or remain; or

(ii) temporary admission within section 11 of the 1971 Act where leave to enter or remain is subsequently granted; or

(iii) an exemption from immigration control, including where an exemption ceases to apply if it is immediately followed by a grant of leave to enter or remain.

(c) 'lived continuously' and 'living continuously' mean 'continuous residence', except that paragraph 276A(a)(iv) shall not apply.

...

Requirements for indefinite leave to remain on the ground of long residence in the United Kingdom

276B. The requirements to be met by an applicant for indefinite leave to remain on the ground of long residence in the United Kingdom are that:

(i) (a) he has had at least 10 years continuous lawful residence in the United Kingdom.

(ii) having regard to the public interest there are no reasons why it would be undesirable for him to be given indefinite leave to remain on the ground of long residence, taking into account his:

(a) age; and

(b) strength of connections in the United Kingdom; and

(c) personal history, including character, conduct, associations and employment record; and

(d) domestic circumstances; and

(e) compassionate circumstances; and

(f) any representations received on the person's behalf; and

(iii) the applicant does not fall for refusal under the general grounds for refusal.

(iv) the applicant has demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL.

(v) the applicant must not be in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded, as will any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period.

Indefinite leave to remain on the ground of long residence in the United Kingdom

276C. Indefinite leave to remain on the ground of long residence in the United Kingdom may be granted provided that the Secretary of State is satisfied that each of the requirements of paragraph 276B is met.

Refusal of indefinite leave to remain on the ground of long residence in the United Kingdom

276D. Indefinite leave to remain on the ground of long residence in the United Kingdom is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 276B is met.

Part 8

Children of settled parent(s)

Requirements for indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

297. 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 or being admitted for settlement in the United Kingdom are that he:

(i) is seeking 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 and the other is being admitted on the same occasion for settlement; or

(d) one parent is present and settled in the United Kingdom or being admitted on the same occasion for settlement 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 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 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) can, and will, be accommodated adequately by the parent, parents or relative the child is seeking to join without recourse to public funds in accommodation which the parent, parents or relative the child is seeking to join, own or occupy exclusively; and

(v) can, and will, be maintained adequately by the parent, parents, or relative the child is seeking to join, without recourse to public funds; and

(vi) holds a valid United Kingdom entry clearance for entry in this capacity; and

(vii) does not fall for refusal under the general grounds for refusal.

Requirements for indefinite leave to remain in the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

298. 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 are that he:

(i) is seeking 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

(b) one parent is present and settled in the United Kingdom and the other parent is dead; or

(c) one parent is present and settled in the United Kingdom and has had sole responsibility for the child's upbringing or the child normally lives with this parent and not their other parent; or

(d) one parent or a relative is present and settled in the United Kingdom 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) has or has had limited leave to enter or remain in the United Kingdom, and
 - (a) is under the age of 18; or
 - (b) was given leave to enter or remain with a view to settlement under paragraph 302 or Appendix FM; or
 - (c) was admitted into the UK in accordance with paragraph 319R and has completed a period of 2 years limited leave as the child of a refugee or beneficiary of humanitarian protection who is now present and settled in the UK or as the child of a former refugee or beneficiary of humanitarian protection who is now a British Citizen, or
 - (d) the applicant *has limited leave to enter or remain in* the United Kingdom in accordance with paragraph 319X, as the child of a relative with limited leave to remain as a refugee or beneficiary of humanitarian protection in the United Kingdom and who is now present and settled here; or
 - (e) was last given limited leave to remain under paragraph 298A; and
- (iii) is not leading an independent life, is unmarried, and has not formed an independent family unit; and
 - (iv) can, and will, be accommodated adequately by the parent, parents or relative the child was admitted to join, without recourse to public funds in accommodation which the parent, parents or relative the child was admitted to join, own or occupy exclusively; and
 - (v) can, and will, be maintained adequately by the parent, parents or relative the child was admitted to join, without recourse to public funds; and
 - (vi) does not fall for refusal under the general grounds for refusal; and
 - (vii) if aged 18 or over, was admitted to the United Kingdom under paragraph 302, or Appendix FM, or 319R or 319X and has demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom in accordance with Appendix KoLL.

298A. If an applicant does not meet the requirements of paragraph 298 only because:

- (a) the applicant does not meet the requirement in paragraph 298(vi) by reason of a sentence or disposal of a type mentioned in paragraph 322(1C)(iii) or (iv); or
- (b) an applicant aged 18 or over does not meet the requirement in paragraph 298(vii); or
- (c) the applicant would otherwise be refused indefinite leave to remain under paragraph 322(1C)(iii) or (iv),

the applicant may be granted limited leave to remain for a period not exceeding 30 months and subject to a condition of no recourse to public funds.

Indefinite leave to enter or remain in the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom

299. Indefinite leave to enter the United Kingdom as the child of a parent, parents or a relative present and settled or being admitted for settlement in the United Kingdom may be granted provided a valid United Kingdom entry clearance for entry in this capacity is produced to the Immigration Officer on arrival. 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 may be granted provided the Secretary of State is satisfied that each of the requirements of paragraph 298 is met.

Part 9: General Grounds of Refusal

Refusal of entry clearance or leave to enter the United Kingdom

A320. Paragraphs 320 (except subparagraph (3), (10) and (11)) and 322 do not apply to an application for entry clearance, leave to enter or leave to remain as a Family Member under Appendix FM, and Part 9 (except for paragraph 322(1)) does not apply to an application for leave to remain on the grounds of private life under paragraphs 276ADE-276DH.

B320(1). Subject to sub-paragraph (2), paragraphs 320 (except sub-paragraphs (3), (7B),(10) and (11)) and 322 (except sub-paragraphs (2) and (3)) do not apply to an application for entry clearance, leave to enter or leave to remain under Appendix Armed Forces.

(2) As well as the sub-paragraphs mentioned above, sub-paragraph (13) of paragraph 320 also applies to applications for entry clearance, leave to enter or leave to remain under Part 9, 9A or 10 of Appendix Armed Forces.

320. In addition to the grounds of refusal of entry clearance or leave to enter set out in Parts 2-8 of these Rules, and subject to paragraph 321 below, the following grounds for the refusal of entry clearance or leave to enter apply:

Grounds on which entry clearance or leave to enter the United Kingdom is to be refused

- (1) the fact that entry is being sought for a purpose not covered by these Rules;
- (2) the fact that the person seeking entry to the United Kingdom:
 - (a) is currently the subject of a deportation order; or
 - (b) has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years; or
 - (c) has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence; or
 - (d) has been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 12 months, unless a period of 5 years has passed since the end of the sentence.

Where this paragraph applies, unless refusal would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees, it will only be in exceptional circumstances that the public interest in maintaining refusal will be outweighed by compelling factors.

(2A) Failure, if required to do so, by a person seeking entry to the United Kingdom to provide a criminal record certificate from the relevant authority in any country in which they have been resident for 12 months or more, in the past 10 years. Such evidence will not normally be required where:

- i. The applicant is aged 17 years old or under at the date the application is made; or
 - ii. It is not reasonably practicable for the applicant to obtain such evidence from the relevant authorities.
- (3) failure by the person seeking entry to the United Kingdom to produce to the Immigration Officer a valid national passport or other document satisfactorily establishing his identity and nationality;

(4) failure to satisfy the Immigration Officer, in the case of a person arriving in the United Kingdom or seeking entry through the Channel Tunnel with the intention of entering any other part of the common travel area, that he is acceptable to the immigration authorities there;

(5) failure, in the case of a visa national, to produce to the Immigration Officer a passport or other identity document endorsed with a valid and current United Kingdom entry clearance issued for the purpose for which entry is sought;

(6) where the Secretary of State has personally directed that the exclusion of a person from the United Kingdom is conducive to the public good;

(7) save in relation to a person settled in the United Kingdom or where the Immigration Officer is satisfied that there are strong compassionate reasons justifying admission, confirmation from the Medical Inspector that, for medical reasons, it is undesirable to admit a person seeking leave to enter the United Kingdom.

(7A) where false representations have been made or false documents or information have been submitted (whether or not material to the application, and whether or not to the applicant's knowledge), or material facts have not been disclosed, in relation to the application or in order to obtain documents from the Secretary of State or a third party required in support of the application.

(7B) where the applicant has previously breached the UK's immigration laws (and was 18 or over at the time of his most recent breach)by:

(a) Overstaying;

(b) breaching a condition attached to his leave;

(c) being an Illegal Entrant;

(d) using Deception in an application for entry clearance, leave to enter or remain, or in order to obtain documents from the Secretary of State or a third party required in support of the application (whether successful or not);

unless the applicant:

(i) Overstayed for 90 days or less and left the UK voluntarily, not at the expense (directly or indirectly) of the Secretary of State;

(ii) used Deception in an application for entry clearance more than 10 years ago;

(iii) left the UK voluntarily, not at the expense (directly or indirectly) of the Secretary of State, more than 12 months ago;

(iv) left the UK voluntarily, at the expense (directly or indirectly) of the Secretary of State, more than 2 years ago; and the date the person left the UK was no more than 6 months after the date on which the person was given notice of liability for removal, or no more than 6 months after the date on which the person no longer had a pending appeal or administrative review; whichever is the later;

(v) left the UK voluntarily, at the expense (directly or indirectly) of the Secretary of State, more than 5 years ago;

(vi) was removed or deported from the UK more than 10 years ago or;

(vii) left or was removed from the UK as a condition of a caution issued in accordance with section 22 of the Criminal Justice Act 2003 more than 5 years ago.

Where more than one breach of the UK's immigration laws has occurred, only the breach which leads to the longest period of absence from the UK will be relevant under this paragraph.

(7D) failure, without providing a reasonable explanation, to comply with a request made on behalf of the Entry Clearance Officer to attend for interview.

Grounds on which entry clearance or leave to enter the United Kingdom should normally be refused

(8) failure by a person arriving in the United Kingdom to furnish the Immigration Officer with such information as may be required for the purpose of deciding whether he requires leave to enter and, if so, whether and on what terms leave should be given;

(8A) where the person seeking leave is outside the United Kingdom, failure by him to supply any information, documents, copy documents or medical report requested by an Immigration Officer;

(9) failure by a person seeking leave to enter as a returning resident to satisfy the Immigration Officer that he meets the requirements of paragraph 18 of these Rules, or that he seeks leave to enter for the same purpose as that for which his earlier leave was granted;

(10) production by the person seeking leave to enter the United Kingdom of a national passport or travel document issued by a territorial entity or authority which is not recognised by Her Majesty's Government as a state or is not dealt with as a government by them, or which does not accept valid United Kingdom passports for the purpose of its own immigration control; or a passport or travel document which does not comply with international passport practice;

(11) where the applicant has previously contrived in a significant way to frustrate the intentions of the Rules by:

(i) overstaying; or

(ii) breaching a condition attached to his leave; or

(iii) being an illegal entrant; or

(iv) deception in an application for entry clearance, leave to enter or remain or in order to obtain documents from the Secretary of State or a third party required in support of the application (whether successful or not); and

there are other aggravating circumstances, such as absconding, not meeting temporary admission/reporting restrictions or bail conditions, using an assumed identity or multiple identities, switching nationality, making frivolous applications or not complying with the re- documentation process.

(12) DELETED

(13) failure, except by a person eligible for admission to the United Kingdom for settlement, to satisfy the Immigration Officer that he will be admitted to another country after a stay in the United Kingdom;

(14) refusal by a sponsor of a person seeking leave to enter the United Kingdom to give, if requested to do so, an undertaking in writing to be responsible for that person's maintenance and accommodation for the period of any leave granted;

(16) failure, in the case of a child under the age of 18 years seeking leave to enter the United Kingdom otherwise than in conjunction with an application made by his parent(s) or legal guardian to provide the Immigration Officer, if required to do so, with written consent to the application from his parent(s) or legal guardian; save that the requirement as to written consent does not apply in the case of a child seeking admission to the United Kingdom as an asylum seeker;

(17) save in relation to a person settled in the United Kingdom, refusal to undergo a medical examination when required to do so by the Immigration Officer;

(18) DELETED

(18A) within the 12 months prior to the date on which the application is decided, the person has been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record;

(18B) in the view of the Secretary of State:

- (a) the person's offending has caused serious harm; or
- (b) the person is a persistent offender who shows a particular disregard for the law.

(19) The immigration officer deems the exclusion of the person from the United Kingdom to be conducive to the public good. For example, because the person's conduct (including convictions which do not fall within paragraph 320(2)), character, associations, or other reasons, make it undesirable to grant them leave to enter.

(20) failure by a person seeking entry into the United Kingdom to comply with a requirement relating to the provision of physical data to which he is subject by regulations made under section 126 of the Nationality, Immigration and Asylum Act 2002.

(21) DELETED

(22) where one or more relevant NHS body has notified the Secretary of State that the person seeking entry or leave to enter has failed to pay a charge or charges with a total value of at least £1000 in accordance with the relevant NHS regulations on charges to overseas visitors

Refusal of leave to enter in relation to a person in possession of an entry clearance

321. A person seeking leave to enter the United Kingdom who holds an entry clearance which was duly issued to him and is still current may be refused leave to enter only where the Immigration Officer is satisfied that:

- (i) False representations were made or false documents or information were submitted (whether or not material to the application, and whether or not to the holder's knowledge), or material facts were not disclosed, in relation to the application for entry clearance; or in order to obtain documents from the Secretary of State or a third party required in support of the application.
- (ii) a change of circumstances since it was issued has removed the basis of the holder's claim to admission, except where the change of circumstances amounts solely to the person becoming over age for entry in one of the categories contained in paragraphs 296-316 of these Rules since the issue of the entry clearance; or
- (iii) grounds which would have led to a refusal under paragraphs 320(2), 320(6), 320(18A), 320(18B) or 320(19) (except where this sub-paragraph applies in respect of an entry clearance issued under Appendix Armed Forces it is to be read as if for "paragraphs 320(2), 320(6), 320(18A), 320(18B) or 320(19)" it said "paragraph 8(a), (b), (c) or (g) and paragraph 9(d)")

Grounds on which leave to enter or remain which is in force is to be cancelled at port or while the holder is outside the United Kingdom

321A. The following grounds for the cancellation of a person's leave to enter or remain which is in force on his arrival in, or whilst he is outside, the United Kingdom apply;

- (1) there has been such a change in the circumstances of that person's case since the leave was given, that it should be cancelled; or
- (2) false representations were made or false documents were submitted (whether or not material to the application, and whether or not to the holder's knowledge), or material facts were not disclosed,

in relation to the application for leave; or in order to obtain documents from the Secretary of State or a third party required in support of the application or,

(3) save in relation to a person settled in the United Kingdom or where the Immigration Officer or the Secretary of State is satisfied that there are strong compassionate reasons justifying admission, where it is apparent that, for medical reasons, it is undesirable to admit that person to the United Kingdom; or

(4) where the Secretary of State has personally directed that the exclusion of that person from the United Kingdom is conducive to the public good; or

(4A) Grounds which would have led to a refusal under paragraphs 320(2), 320(6), 320(18A), 320(18B) or 320(19) if the person concerned were making a new application for leave to enter or remain (except where this sub-paragraph applies in respect of leave to enter or remain granted under Appendix Armed Forces it is to be read as if for paragraphs 320(2), 320(6), 320(18A), 320(18B) or 320(19) it said "paragraph 8(a), (b), (c) or (g) and paragraph 9(d)"); or

(5) The Immigration Officer or the Secretary of State deems the exclusion of the person from the United Kingdom to be conducive to the public good. For example, because the person's conduct (including convictions which do not fall within paragraph 320(2)), character, associations, or other reasons, make it undesirable to grant them leave to enter the United Kingdom; or

(6) where that person is outside the United Kingdom, failure by that person to supply any information, documents, copy documents or medical report requested by an Immigration Officer or the Secretary of State.

Refusal of leave to remain, variation of leave to enter or remain or curtailment of leave

322. In addition to the grounds for refusal of extension of stay set out in Parts 2-8 of these Rules, the following provisions apply in relation to the refusal of an application for leave to remain, variation of leave to enter or remain or, where appropriate, the curtailment of leave: Grounds on which leave to remain and variation of leave to enter or remain in the United Kingdom are to be refused

(1) the fact that variation of leave to enter or remain is being sought for a purpose not covered by these Rules.

(1A) where false representations have been made or false documents or information have been submitted (whether or not material to the application, and whether or not to the applicant's knowledge), or material facts have not been disclosed, in relation to the application or in order to obtain documents from the Secretary of State or a third party required in support of the application.

(1B) the applicant is, at the date of application, the subject of a deportation order or a decision to make a deportation order;

(1C) where the person is seeking indefinite leave to enter or remain:

(i) they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years; or

(ii) they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than 4 years, unless a period of 15 years has passed since the end of the sentence; or

(iii) have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence; or

(iv) have, within the 24 months prior to the date on which the application is decided, been convicted of or admitted an offence for which they have received a non-custodial sentence or other out of court disposal that is recorded on their criminal record.

(1D) DELETED

Grounds on which leave to remain and variation of leave to enter or remain in the United Kingdom should normally be refused

(2) the making of false representations or the failure to disclose any material fact for the purpose of obtaining leave to enter or a previous variation of leave or in order to obtain documents from the Secretary of State or a third party required in support of the application for leave to enter or a previous variation of leave.

(2A) the making of false representations or the failure to disclose any material fact for the purpose of obtaining a document from the Secretary of State that indicates the person has a right to reside in the United Kingdom.

(3) failure to comply with any conditions attached to the grant of leave to enter or remain;

(4) failure by the person concerned to maintain or accommodate himself and any dependants without recourse to public funds;

(5) the undesirability of permitting the person concerned to remain in the United Kingdom in the light of his conduct (including convictions which do not fall within paragraph 322(1C), character or associations or the fact that he represents a threat to national security;

(5A) it is undesirable to permit the person concerned to enter or remain in the United Kingdom because, in the view of the Secretary of State:

(a) their offending has caused serious harm; or

(b) they are a persistent offender who shows a particular disregard for the law;

(6) refusal by a sponsor of the person concerned to give, if requested to do so, an undertaking in writing to be responsible for his maintenance and accommodation in the United Kingdom or failure to honour such an undertaking once given;

(7) failure by the person concerned to honour any declaration or undertaking given orally or in writing as to the intended duration and/or purpose of his stay;

(8) failure, except by a person who qualifies for settlement in the United Kingdom or by the spouse or civil partner of a person settled in the United Kingdom, to satisfy the Secretary of State that he will be returnable to another country if allowed to remain in the United Kingdom for a further period;

(9) failure by an applicant to produce within a reasonable time information, documents or other evidence required by the Secretary of State to establish his claim to remain under these Rules;

(10) failure, without providing a reasonable explanation, to comply with a request made on behalf of the Secretary of State to attend for interview;

(11) failure, in the case of a child under the age of 18 years seeking a variation of his leave to enter or remain in the United Kingdom otherwise than in conjunction with an application by his parent(s) or legal guardian, to provide the Secretary of State, if required to do so, with written consent to the application from his parent(s) or legal guardian; save that the requirement as to written consent does not apply in the case of a child who has been admitted to the United Kingdom as an asylum seeker.

(12) where one or more relevant NHS body has notified the Secretary of State that the person seeking leave to remain or a variation of leave to enter or remain has failed to pay a charge or charges with a total value of at least £1000 in accordance with the relevant NHS regulations on charges to overseas visitors.

Grounds on which leave to enter or remain may be curtailed

323. A person's leave to enter or remain may be curtailed:

- (i) on any of the grounds set out in paragraph 322(2)-(5A) above (except where this paragraph applies in respect of a person granted leave under Appendix Armed Forces "paragraph 322(2)-(5A) above" is to read as if it said "paragraph 322(2) and (3) above and paragraph 8(e) and (g) of Appendix Armed Forces"; or
- (ia) he uses deception in seeking (whether successfully or not) leave to remain or a variation of leave to remain; or
- (ii) if he ceases to meet the requirements of the Rules under which his leave to enter or remain was granted; or
- (iii) he is the dependant, or is seeking leave to remain as the dependant, of an asylum applicant whose claim has been refused and whose leave has been curtailed under section 7 of the 1993 Act, and he does not qualify for leave to remain in his own right, or
- (iv) any of the grounds set out in paragraph 339A (i)-(vi) and paragraph 339G (i)-(vi), or
- (v) where a person has, within the first 6 months of being granted leave to enter, committed an offence for which they are subsequently sentenced to a period of imprisonment, or
- (vi) if he was granted his current period of leave as the dependent of a person ("P") and P's leave to enter or remain is being, or has been, curtailed; or
- (vii) if, without a reasonable explanation, he fails to comply with a request made by or on behalf of the Secretary of State under paragraph 39D.

Curtailed leave in relation to a Tier 2 Migrant, a Tier 5 Migrant or a Tier 4 Migrant

323A. In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 2 Migrant, a Tier 4 Migrant or a Tier 5 Migrant:

- (a) is to be curtailed if:
 - (i) in the case of a Tier 2 Migrant or a Tier 5 Migrant:
 - (1) the migrant fails to commence, or
 - (2) the migrant ceases, or will cease, before the end date recorded on the Certificate of Sponsorship Checking Service,

the employment, volunteering, training or job shadowing (as the case may be) that the migrant has been sponsored to do.
 - (ii) in the case of a Tier 4 Migrant:
 - (1) the migrant fails to commence studying with the Sponsor, or
 - (2) the Sponsor has excluded or withdrawn the migrant, or the migrant has withdrawn, from the course of studies, or
 - (2A) the migrant's course of study has ceased, or will cease, before the end date recorded on the Certificate of Sponsorship Checking Service, or
 - (3) the Sponsor withdraws their sponsorship of a migrant on the doctorate extension scheme, or
 - (4) the Sponsor withdraws their sponsorship of a migrant who, having completed a pre-session course as provided in paragraph 120(b) (i) of Appendix A, does not have a knowledge of English equivalent to level B2 of the Council of Europe's Common European Framework for Language Learning in all four components (reading, writing, speaking and listening) or above.

- (b) may be curtailed if:
 - (i) the migrant's Sponsor ceases to have a sponsor licence (for whatever reason); or
 - (ii) the migrant's Sponsor transfers the business for which the migrant works, or at which the migrant is studying, to another person; and
 - (1) that person does not have a sponsor licence; and
 - (2) fails to apply for a sponsor licence within 28 days of the date of the transfer of the business; or
 - (3) applies for a sponsor licence but is refused; or
 - (4) makes a successful application for a sponsor licence, but the Sponsor licence granted is not in a category that would allow the Sponsor to issue a Certificate of Sponsorship or Confirmation of Acceptance for Studies to the migrant;
 - (iii) the case of a Tier 2 Migrant or a Tier 5 Migrant, if the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do undergoes a prohibited change as specified in paragraph 323AA;
 - (iv) paragraph (a) above applies but:
 - (1) the migrant is under the age of 18;
 - (2) the migrant has a dependant child under the age of 18;
 - (3) leave is to be varied such that when the variation takes effect the migrant will have leave to enter or remain and the migrant has less than 60 days extant leave remaining;
 - (4) the migrant has been granted leave to enter or remain with another Sponsor or under another immigration category; or
 - (5) the migrant has a pending application for leave to remain, or variation of leave, with the UK Border Agency, or has a pending appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002 or has a pending administrative review.

...

Curtailement of leave in relation to a Tier 1 (Exceptional Talent) Migrant

323B. In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 1 (Exceptional Talent) Migrant may be curtailed if the Designated Competent Body that endorsed the application which led to the migrant's current grant of leave withdraws its endorsement of the migrant.

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

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

- (a) loses its status as an endorsing institution for Tier 1 (Graduate Entrepreneur) Migrants,
- (b) ceases to be a sponsor with Tier 4 Sponsor status,
- (c) ceases to be an A-rated Sponsor under Tier 2 or Tier 5 of the Points-Based System because its Tier 2 or Tier 5 Sponsor licence is downgraded or revoked by the UK Border Agency, or

- (d) withdraws its endorsement of the migrant.

Crew members

324. A person who has been given leave to enter to join a ship, aircraft, hovercraft, hydrofoil or international train service as a member of its crew, or a crew member who has been given leave to enter for hospital treatment, repatriation or transfer to another ship, aircraft, hovercraft, hydrofoil or international train service in the United Kingdom, is to be refused leave to remain unless an extension of stay is necessary to fulfil the purpose for which he was given leave to enter or unless he meets the requirements for an extension of stay as a spouse or civil partner in paragraph 284.

Appendix 1: UK visa requirements

1. Subject to paragraph 2 below, the following persons need a visa for the United Kingdom:

(a) Nationals or citizens of the following countries or territorial entities:

Afghanistan	Jamaica
Albania	Jordan
Algeria	Kazakhstan
Angola	Kenya
Armenia	Korea (North)
Azerbaijan	Kuwait
Bahrain (except those referred to in sub-paragraph 2(w) of this Appendix)	Kyrgyzstan
Bangladesh	Laos
Belarus	Lebanon
Benin	Lesotho
Bhutan	Liberia
Bolivia	Libya
Bosnia Herzegovina	Macedonia
Burkina Faso	Madagascar
Burma	Malawi
Burundi	Mali
Cambodia	Mauritania
Cameroon	Moldova
Cape Verde	Mongolia
Central African Republic	Morocco
Chad	Mozambique
People's Republic of China (except those referred to in sub-paragraphs 2(d) and (e) of this Appendix)	Nepal
Colombia	Niger
Comoros	Nigeria
Congo	Oman (except those referred to in sub-paragraph 2(j) of this Appendix)
Cuba	Pakistan
Democratic Republic of the Congo	Peru
Djibouti	Philippines
Dominican Republic	Qatar (except those referred to in sub-paragraph 2(k) of this Appendix)
Ecuador	Russia
Egypt	Rwanda
Equatorial Guinea	Sao Tome e Principe
Eritrea	Saudi Arabia
Ethiopia	Senegal
Fiji	Serbia
Gabon	Sierra Leone
Gambia	Somalia
Georgia	South Africa
Ghana	South Sudan
Guinea	Sri Lanka
Guinea Bissau	Sudan
Guyana	Surinam
Haiti	Swaziland
India	Syria
Indonesia	Taiwan (except those referred to in sub-paragraph 2(h) of this Appendix)
Iran	Tajikistan
Iraq	Tanzania
Ivory Coast	Thailand
	Togo
	Tunisia

Turkey (except those referred to in sub-paragraph 2(q) of this Appendix)	Venezuela
Turkmenistan	Vietnam
Uganda	Yemen
Ukraine	Zambia
United Arab Emirates (except those referred to in sub-paragraph 2(1) of this Appendix)	Zimbabwe
Uzbekistan	The territories formerly comprising the socialist Federal Republic of Yugoslavia
...	

Appendix A - Attributes

35-53

Attributes for Tier 1 (Entrepreneur) Migrants

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

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

36A. An applicant who is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as:

- (i) a Tier 4 Migrant,
- (ii) a Student,
- (iii) a Student Nurse,
- (iv) a Student Re-sitting an Examination, or
- (v) a Student Writing Up a Thesis,

will only be awarded points under the provisions in (b)(ii) or (b)(iii) in Table 4.

36B. An applicant who is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Post-Study Work) Migrant will only be awarded points under the provisions in (b)(ii), (b)(iii) or (d) in Table 4.

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

- (a) has had entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator in the 12 months immediately before the date of application, or
- (b) is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.

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

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

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

40. In all cases, an applicant cannot use the same funds to score points for attributes under this Appendix and to score points for maintenance funds for himself or his dependants under Appendices C or E.

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

Investment and business activity	Points
(a) The applicant has access to not less than £200,000, or	25

(b) The applicant has access to not less than £50,000 from:

(i) one or more registered venture capitalist firms regulated by the Financial Conduct Authority (FCA),

(ii) one or more UK Entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website, or

(iii) one or more UK Government Departments, or Devolved Government Departments in Scotland, Wales or Northern Ireland, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business, or

(c) The applicant:

(i) is applying for leave to remain,

(ii) has, or was last granted, leave as a Tier 1 (Graduate Entrepreneur) Migrant, and

(iii) has access to not less than £50,000, or

(d) The applicant:

(i) is applying for leave to remain,

(ii) has access to not less than £50,000.

An applicant who is applying for leave to remain and has, or was last granted leave as a Tier 1 (General) Migrant will be awarded no points under (a) or (b)(i) above, unless he meets the additional requirements in (1) and (2) below.

An applicant who is applying for leave to remain and has, or was last granted leave as a Tier 1 (Post-Study Work) Migrant will be awarded no points under (d) above, unless he meets the additional requirements in (1) and (2) below.

(1) Since before the specified date below and up to the date of his application, the applicant must have been continuously engaged in business activity which was not, or did not amount to, activity pursuant to a contract of service with a business other than his own and, during such period, has been continuously:

- registered with HM Revenue & Customs as self-employed, or
- registered with Companies House as a director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points.

(2) Since before the specified date below and up to the date of his application, has continuously been working in an occupation which appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the Codes of Practice in Appendix J, and provides the specified evidence in paragraph 41-SD. "Working" in this context means that the core service his business provides to its customers or clients involves the business delivering a service in an occupation at this level. It excludes any work involved in administration, marketing or website functions for the business, and.

The specified date in (1) and (2) above is:

- 11 July 2014 if the applicant has, or was last granted, leave as a Tier 1 (Post-Study Work) Migrant, or
- 6 April 2015 if the applicant has, or was last granted, leave as a Tier 1 (General) Migrant.

The money is held in one or more regulated financial institutions

25

The money is disposable in the UK	25
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Investment: notes

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

(a) The specified documents in paragraph 41-SD are provided to show cash money to the amount required (this must not be in the form of assets and, where multiple documents are provided, they must show the total amount required is available on the same date);

(b) The specified documents in paragraph 41-SD are provided to show that the applicant has permission to use the money to invest in a business in the UK;

(c) Where the applicant has held the money for less than a consecutive 90-day period of time, ending no earlier than 31 days before the date of application, the applicant must provide the specified documents for third party funding in paragraph 41-SD, as evidence of the source of the money;

(d) The money is either held in a UK regulated financial institution or is transferable to the UK; and

(e) The money will remain available to the applicant until such time as it is spent for the purposes of the applicant's business or businesses. The Secretary of State reserves the right to request further evidence or otherwise verify that the money will remain available, and to refuse the application if this evidence is not provided or it is unable to satisfactorily verify.

41-SD. The specified documents in Table 4 and paragraph 41, and associated definitions, are as follows...[etc]

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

Investment and business activity	Points
The applicant has invested, or had invested on his behalf, not less than £200,000 (or £50,000 if, in his last grant of leave, he was awarded points for funds of £50,000 in cash directly into one or more businesses in the UK.	25
<p>The applicant has:</p> <p>(a) registered with HM revenue and Customs as self-employed, or</p> <p>(b) registered with Companies House as a director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points.</p> <p>Where the applicant's last grant of entry clearance, leave to enter or leave to remain was as a Tier 1 (Entrepreneur) Migrant, the above condition must have been met within 6 months of his entry to the UK (if he was granted entry clearance as a Tier 1 (Entrepreneur) Migrant and there is evidence to establish his date of arrival to the UK), or, in any other case, the date of the grant of leave to remain.</p>	20
<p>On a date no earlier than three months prior to the date of application, the applicant was:</p> <p>(a) registered with HM revenue and Customs as self-employed, or</p> <p>(b) registered with Companies House as a director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points.</p>	15

<p>The applicant has:</p> <p>(a) established a new business or businesses that has or have created the equivalent of at least two new full time jobs for persons settled in the UK, or</p> <p>(b) taken over or invested in an existing business or businesses and his services or investment have resulted in a net increase in the employment provided by the business or businesses for persons settled in the UK by creating the equivalent of at least two new full time jobs.</p> <p>Where the applicant's last grant of entry clearance or leave to enter or remain was as a Tier 1 (Entrepreneur) Migrant, the jobs must have existed for at least 12 months of the period for which the previous leave was granted.</p>	20
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Table 6: Applications for indefinite leave to remain as referred to in paragraph 38

Row	Investment and business activity	Points
1.	<p>The applicant has invested, or had invested on his behalf, not less than £200,000 (or £50,000 if, in his last grant of leave, he was awarded points for funds of £50,000) in cash directly into one or more businesses in the UK.</p> <p>The applicant will not need to provide evidence of this investment if he was awarded points for it, as set out in Table 5, in his previous grant of entry clearance or leave to remain as a Tier 1 (Entrepreneur) Migrant.</p>	20
2.	<p>On a date no earlier than three months prior to the date of application, the applicant was:</p> <p>(a) registered with HM Revenue and Customs as self-employed, or</p> <p>(b) registered with Companies House as a director of a new or an existing business. Directors who are on the list of disqualified directors provided by Companies House will not be awarded points.</p>	20
3.	<p>The applicant has:</p> <p>(a) established a new UK business or businesses that has or have created the equivalent of X new full time jobs for persons settled in the UK, or</p> <p>(b) taken over or invested in an existing UK business or businesses and his services or investment have resulted in a net increase in the employment provided by the business or businesses for persons settled in the UK by creating the equivalent of X new full time jobs where X is at least 2.</p> <p>Where the applicant's last grant of entry clearance or leave to enter or remain was as a Tier 1 (Entrepreneur) Migrant, the jobs must have existed for at least 12 months during that last grant of leave.</p>	20
4.	<p>The applicant has spent the specified continuous period lawfully in the UK, with absences from the UK of no more than 180 days in any 12 calendar months during that period.</p> <p>The specified period must have been spent with leave as a Tier 1 (Entrepreneur) Migrant, as a Businessperson and/or as an Innovator, of which the most recent period must have been spent with leave as a Tier (1) (Entrepreneur) Migrant.</p> <p>The specified continuous period is:</p>	15

<p>(a) 3 years if the number of new full time jobs, X, referred to in row 3 above is at least 10, or</p> <p>(b) 3 years if the applicant has:</p> <p>(i) established a new UK business that has had an income from business activity of at least £5 million during a 3 year period</p> <p>in which the applicant has had leave as a Tier 1 (Entrepreneur) Migrant, or</p> <p>(ii) taken over or invested in an existing UK business and his services or investment have resulted in a net increase in income from business activity to that business of £5 million during a 3 year period in which the applicant has had leave as a Tier 1 (Entrepreneur) Migrant, when compared to the immediately preceding 3 year period,</p> <p>or</p> <p>(c) 5 years in all other cases.</p> <p>Time spent with valid leave in the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man in a category equivalent to the categories set out above may be included in the continuous period of lawful residence, provided the most recent period of leave was as a Tier 1 (Entrepreneur) Migrant in the UK. In any such case, the applicant must have absences from the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man (as the case may be) of no more than 180 days in any 12 calendar months during the specified continuous period.</p>	
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Investment and business activity: notes

46. Documentary evidence must be provided in all cases. The specified documents in paragraph 46-SD must be provided as evidence of any investment and business activity that took place when the applicant had leave as a Tier 1 (Entrepreneur) Migrant or a Tier 1 (Post-Study Work) Migrant, and any investment made no more than 12 months (or 24 months if the applicant was last granted leave as a Tier 1 (Graduate Entrepreneur) Migrant) before the date of the application for which the applicant is claiming points.

46-SD. The specified documents in paragraphs 45 and 46 are as follows:

(a) The applicant must provide all the appropriate specified documents needed to establish the amount of money he has invested from the following list:...[etc]

...

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

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

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

Entrepreneurial teams: Notes

52. Two applicants, and no more than two applicants, may claim points for the same investment and business activity in Tables 4, 5 or 6 providing the following requirements are met.

Requirements:

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

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

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

53. (a) No points will be awarded for funds that are made available to any individual other than the applicant, except:

(i) under the terms of paragraph 52 above; or

(ii) where the money is held in a joint account with the applicant's "spouse, civil partner or partner (defined as a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application), and that spouse or partner is not (or is not applying to be) another Tier 1 (Entrepreneur) Migrant.

(b) No points will be awarded for investment and business activity shared with another Tier 1 (Entrepreneur) applicant, except under the terms of paragraph 52 above.

(c) If the applicant is not the sole partner or director in the business, he must state:

(i) the names of the other partners or directors,

(ii) whether any of the other partners or directors are also Tier 1 (Entrepreneur) Migrants, and

(iii) if so:

(1) the dates they became partners or directors,

(2) whether they are applying under the provisions in paragraph 52 above, and

(3) if they have made (or are making at the same time) an application in which they claimed points for creating jobs, the names of the jobholders in question.

76-79D

Attributes for Tier 2 (General) Migrants

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

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

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

Table 11A

Certificate of Sponsorship	Points	Appropriate salary	Points
Job offer passes Resident Labour Market Test	30	Appropriate salary	20
Resident Labour Market Test exemption applies	30		
Continuing to work in the same occupation for the same Sponsor	30		

Notes

Certificate of Sponsorship

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

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

77B. The only Certificates of Sponsorship to be allocated to Sponsors for applicants to be Sponsored as Tier 2 (General) Migrants are:

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

(b) Certificates of Sponsorship to be assigned to specified applicants for leave to remain as a Tier 2 (General) Migrant, as set out in paragraph 77D of Appendix A,

(c) Certificates of Sponsorship to be assigned to an applicant to do a job for which the gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 79 of this Appendix) is £155,300 (or £153,500, if the recruitment took place before 6 April 2015) or higher,

and

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

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

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

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

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

(e) The migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn),

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

(g) the Sponsor is an A-rated Sponsor, unless:

(1) the application is for leave to remain, and

(2) the applicant has, or was last granted, leave as a Tier 2 (General) Migrant, a Jewish Agency Employee, a Member of the Operational Ground Staff of an Overseas-owned Airline, a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, or a Qualifying Work Permit Holder, and

(3) the applicant is applying to work for the same employer named on the Certificate of Sponsorship or Work Permit document which led to his last grant of leave or, in the case of an applicant whose last grant of leave was as a Jewish Agency Employee, a Member of the Operational Ground Staff of an Overseas-owned Airline, a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, the same employer for whom the applicant was working or stated he was intending to work when last granted leave.

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

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

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

(i) the applicant:

(1) is applying for leave to remain, and

(2) does not have, or was not last granted, entry clearance, leave to enter or leave to remain as the Partner of a Relevant Points Based System Migrant, or

(ii) the number supplied links to a Certificate of Sponsorship Checking Service entry which shows that the applicant's gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 79 of this appendix) to be paid by the Sponsor is £155,300 (or £153,500, if the recruitment took place before 6 April 2015) or higher.

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

(a) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on:

(i) the list of occupations skilled to National Qualifications Framework level 6 or above, as stated in the codes of practice in Appendix J, or

(ii) one of the following creative sector occupations skilled to National Qualifications Framework level 4 or above:

- (1) 3411 Artists,
- (2) 3412 Authors, writers and translators,
- (3) 3413 Actors, entertainers and presenters,
- (4) 3414 Dancers and choreographers, or
- (5) 3422 Product, clothing and related designers,

or

(b) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do is skilled to National Qualifications Framework level 4 or above, and appears on the shortage occupation list in Appendix K,

or

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

(ii) the applicant previously had leave as a Tier 2 (General) Migrant or a Qualifying Work Permit Holder, and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route,

(iii) at the time a Certificate of Sponsorship or Work Permit which led to a grant of leave in (ii) was issued, the job referred to in that Certificate of Sponsorship or Work Permit appeared on the shortage occupation list in Appendix K, and

(iv) the job that the Certificate of Sponsorship Checking service entry records that the person is being sponsored to do in his current application is the same as the job referred to in (iii), for either the same or a different employer,

or

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

(ii) the applicant previously had leave as a Tier 2 (General) Migrant under the Rules in place between 6 April 2011 and 13 June 2012, and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route, and

(iii) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the codes of practice in Appendix J,

or

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

(ii) the applicant previously had leave as:

- (1) a Tier 2 (General) Migrant under the rules in place before 6 April 2011,
- (2) a Qualifying Work Permit Holder,
- (3) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
- (4) a Member of the Operational Ground Staff of an Overseas-owned Airline
- (5) a Jewish Agency Employee,

and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route, and

(iii) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 3 or above, as stated in the codes of practice in Appendix J, or the applicant is a Senior Care Worker or an Established Entertainer as defined in paragraph 6 of these Rules.

(f) (i) the applicant was last granted as a Tier 2 (General) Migrant,

(ii) the applicant is applying for leave to remain to work in the same occupation for the same Sponsor as in the application which led to his previous grant of leave,

(iii) the Certificate of Sponsorship used in support of the applicant's previous application was assigned by the Sponsor before 6 April 2013, and

(iv) the occupation fails to meet the required skill level in (a) to (e) above solely due to reclassification from the SOC 2000 system to the SOC 2010 system.

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

77G. No points will be awarded for a Certificate of Sponsorship if the job that the Certificate of Sponsorship Checking Service entry records that the applicant is being sponsored to do amounts to:

(a) the hire of the applicant to a third party who is not the sponsor to fill a position with that party, whether temporary or permanent, or

(b) contract work to undertake an ongoing routine role or to provide an ongoing routine service for a third party who is not the sponsor,

regardless of the nature or length of any arrangement between the sponsor and the third party.

77H. No points will be awarded for a Certificate of Sponsorship if the Entry Clearance Officer or the Secretary of State has reasonable grounds to believe, notwithstanding that the applicant has provided the evidence required under the relevant provisions of Appendix A, that:

(a) the job as recorded by the Certificate of Sponsorship Checking Service is not a genuine vacancy,

(b) the applicant is not appropriately qualified or registered to do the job in question (or will not be, by the time they begin the job), or

(c) the stated requirements of the job as recorded by the Certificate of Sponsorship Checking Service and in any advertisements for the job are inappropriate for the job on offer and / or have been tailored to exclude resident workers from being recruited.

77I. To support the assessment in paragraph 77H(b), if the applicant is not yet appropriately qualified or registered to do the job in question, he must provide evidence with his application showing that he can reasonably be expected to obtain the appropriate qualifications or registrations by the time he begins the job, for example, a letter from the relevant body providing written confirmation that the applicant has registered to sit the relevant examinations.

77J. To support the assessment in paragraph 77H(a)-(c), the Entry Clearance Officer or the Secretary of State may request additional information and evidence from the applicant or the Sponsor, and refuse the application if the information or evidence is not provided. Any requested documents must

be received by the Entry Clearance Officer or the Secretary of State at the address specified in the request within 28 calendar days of the date the request is sent.

Job offer passes Resident Labour Market Test

78. Points will only be awarded for a job offer that passes the Resident Labour Market Test if:

- (a) the Sponsor has advertised (or had advertised on its behalf) the job as set out in Tables 11B and 11C below; and
- (b) The advertisements have stated:
 - (i) the job title,
 - (ii) the main duties and responsibilities of the job (job description),
 - (iii) the location of the job,
 - (iv) an indication of the salary package or salary range or terms on offer,
 - (v) the skills, qualifications and experience required for the job, and
 - (vi) the closing date for applications, unless it is part of the Sponsor's rolling recruitment programme, in which case the advertisement should show the period of the recruitment programme;
- and
- (c) The advertisements were published in English (or Welsh if the job is based in Wales); and
- (d) The Sponsor can show that no suitable settled worker is available to fill the job unless the job is in a PhD-level occupation listed in Appendix J. Settled workers will not be considered unsuitable on the basis that they lack qualifications, experience or skills (including language skills) that were not specifically requested in the job advertisement; and
- (e) The Certificate of Sponsorship Checking Service entry contains full details of when and where the job was advertised, and any advertisement reference numbers, including the Universal Jobmatch (or other Jobcentre Plus online service) or JobCentre Online vacancy reference number where relevant.

Table 11B: Advertising methods and duration which satisfy the Resident Labour Market Test

Type of job	Methods of advertising / recruitment	Duration / timing of advertising
New graduate jobs or internships	University milkround visits to at least 3 UK universities (or all UK universities which provide the relevant course, whichever is the lower number), At least one of the following websites: - www.jobs.ac.uk, - www.milkround.com, - www.prospects.ac.uk, or - www.targetjobs.co.uk and At least one other medium listed in Table 11C	At least 28 days within the 4 years immediately before the Sponsor assigned the Certificate of Sponsorship to the applicant
Pupillages for trainee barristers	At least two media (or one medium if the job was advertised before 6	At least 28 days within the 2 years immediately before the

	April 2013) listed in Table 11C	Sponsor assigned the Certificate of Sponsorship to the applicant
Jobs in PhD-level occupations as listed in Appendix J	At least two media (or one medium if the job was advertised before 6 April 2013) listed in Table 11C	At least 28 days within the 1 year immediately before the Sponsor assigned the Certificate of Sponsorship to the applicant
Jobs where the appropriate salary, as determined by paragraphs 79 to 79D of Appendix A, is at least £72,500 per year (or £71,600 per year if the job was advertised before 6 April 2015) or there is a stock exchange disclosure requirement	At least two media (or one medium if the job was advertised before 6 April 2013) listed in Table 11C	At least 28 days within the 6 months immediately before the Sponsor assigned the Certificate of Sponsorship to the applicant
Creative sector jobs covered by Table 9 of Appendix J	As set out in Table 9 of Appendix J	As set out in Table 9 of Appendix J
Orchestral musicians	Universal Jobmatch (or other Jobcentre Plus online service) for jobs based in England, Scotland or Wales, or JobCentre Online for jobs based in Northern Ireland, and At least one other medium listed in Table 11C	At least 28 days within the 2 years immediately before the Sponsor assigned the Certificate of Sponsorship to the applicant
Positions in the NHS where the Resident Labour Market Test includes advertising on NHS Jobs between 19 November 2012 and 6 April 2015	NHS Jobs	At least 28 days within the 6 months immediately before the Sponsor assigned the Certificate of Sponsorship to the applicant
All other jobs	Universal Jobmatch (or other Jobcentre Plus online service) for jobs based in England, Scotland or Wales, or JobCentre Online for jobs based in Northern Ireland, and At least one other medium listed in Table 11C	At least 28 days within the 6 months immediately before the Sponsor assigned the Certificate of Sponsorship to the applicant

Table 11C: Advertising media which satisfy the Resident Labour Market Test

Type of medium	Criteria for suitable media
Newspaper	Must be: marketed throughout the UK or throughout the whole of the devolved nation in which

	the job is located, and published at least once a week
Professional journal	Must be: available nationally through retail outlets or through subscription, published at least once a month, and related to the nature of the job i.e. a relevant trade journal, official journal of a professional occupational body, or subject-specific publication
Website	Must be one of the following: Universal Jobmatch (or other Jobcentre Plus online service), for jobs based in England, Scotland or Wales, JobCentre Online, for jobs based in Northern Ireland, an online version of a newspaper or professional journal which would satisfy the criteria above, the website of a prominent professional or recruitment organisation, which does not charge a fee to jobseekers to view job advertisements or to apply for jobs via those advertisements, or if the Sponsor is a multinational organisation or has over 250 permanent employees in the UK, the Sponsor's own website

Resident Labour Market Test exemption applies

Shortage occupation

78A. In order for a Resident Labour Market Test exemption to apply for a job offer in a shortage occupation:

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

Post-Study Work

78B. In order for a Resident Labour Market Test exemption to apply for post-study work:

- (a) the applicant must be applying for leave to remain,
- (b) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as:
 - (1) a Tier 1 (Graduate Entrepreneur) Migrant,
 - (2) a Tier 1 (Post-Study Work) Migrant,
 - (3) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
 - (4) a Participant in the Fresh Talent: Working in Scotland Scheme,
 - (5) a Tier 4 Migrant,

- (6) a Student,
- (7) a Student Nurse,
- (8) a Student Re-Sitting an Examination,
- (9) a Person Writing Up a Thesis,
- (10) an Overseas Qualified Nurse or Midwife,
- (11) a Postgraduate Doctor or Dentist, or
- (12) a Student Union Sabbatical Officer,

and

(c) Where (b)(5) to (12) apply, the applicant must meet the requirements of paragraph 245HD(d) of these Rules.

Other exemptions

78C. In order for another Resident Labour Market Test exemption to apply, either:

(a) the Certificate of Sponsorship Checking Service entry must show that the applicant's gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 79 of this appendix) to be paid by the Sponsor is £155,300 (or £153,500, if the recruitment took place before 6 April 2015) or higher; or

(b) the job offer must be in a supernumerary research position where the applicant has been issued a non-transferable scientific research Award or Fellowship by an external organisation which is not the Sponsor, meaning that the role is over and above the Sponsor's normal requirements and if the applicant was not there, the role would not be filled by anyone else; or

(c) the job offer must be to continue working as a Doctor or Dentist in training, under the same NHS Training Number which was assigned to the applicant for previous lawful employment as a Doctor or Dentist in Training in the UK; or

(d) the job offer must be as a Doctor in Speciality Training where the applicant's salary and the costs of his training are being met by the government of another country under an agreement with that country and the United Kingdom Government; or

(e) the job offer must be to resume a post in a Higher Education Institution, working for the same Sponsor as in a previous grant of entry clearance or leave to remain as a Tier 2 (General) Migrant, where the break in employment is due solely to a period of academic leave;

and the Certificate of Sponsorship Checking Service entry must provide full details of why an exemption applies.

Continuing to work in the same occupation for the same Sponsor

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

(a) the applicant must be applying for leave to remain,

(b) the applicant must have or have last been granted entry clearance or leave to remain as:

(i) a Tier 2 (General) Migrant,

(ii) a Qualifying Work Permit Holder,

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

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

(v) a Jewish Agency Employee,

(b) the Sponsor must be the same employer:

(i) as the Sponsor on the previous application that was granted, in the case of an applicant whose last grant of leave was as a Tier 2 (General) Migrant,

(ii) that the work permit was issued to, in the case of an applicant whose last grant of leave was as a Qualifying Work Permit Holder,

(iii) for whom the applicant was working or stated he was intending to work when last granted leave, in the case of an applicant whose last grant of leave was a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Member of the Operational Ground Staff of an Overseas-owned Airline, or a Jewish Agency Employee.

(c) the job that the Certificate of Sponsorship Checking Service entry records the applicant as having been engaged to do must be the same occupation:

(i) in respect of which the Certificate of Sponsorship that led to the previous grant was issued, in the case of an applicant whose last grant of leave was as a Tier 2 (General) Migrant,

(ii) in respect of which the previous work permit was issued, in the case of an applicant whose last grant of leave was as a Qualifying Permit Holder, or

(iii) that the applicant was doing, or intended to do, when he received his last grant of leave, in the case of an applicant whose last grant of leave was a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Member of the Operational Ground Staff of an Overseas-owned Airline, or a Jewish Agency Employee,

Appropriate salary

79. The points awarded for appropriate salary will be based on the applicant's gross annual salary to be paid by the Sponsor, subject to the following conditions:

(i) Points will be awarded based on basic pay (excluding overtime);

(ii) Allowances, such as London weighting, will be included in the salary for the awarding of points where they are part of the guaranteed salary package and would be paid to a local settled worker in similar circumstances;

(iii) Other allowances and benefits, such as bonus or incentive pay, employer pension contributions, travel and subsistence (including travel to and from the applicant's home country), will not be included.

(iv) If the applicant has exchanged some of his UK employment rights for shares as an employee-owner, the value of those shares will not be included.

79A. No points will be awarded if the salary referred to in paragraph 79 above is less than £20,800 per year, unless:

(a) the applicant:

(i) is applying for leave to remain, and

(ii) previously had leave as:

(1) a Qualifying Work Permit Holder,

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

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

(4) a Jewish Agency Employee, or

(5) a Tier 2 (General) Migrant under the Rules in place before 6 April 2011; and

(iii) has not been granted entry clearance in this or any other route since that grant of leave; or

(b) the Certificate of Sponsorship checking service entry records the applicant:

(i) is being sponsored as a pre-registration candidate nurse or candidate midwife on the basis that:

(1) the applicant obtained a Nursing and Midwifery Council permission before 30 March 2015 to undertake the Overseas Nursing Programme or the Adaptation to Midwifery Programme, and is being sponsored to undertake a supervised practice placement as part of the programme, which has been approved by the Nursing and Midwifery Council, or

(2) the applicant will sit an Observed Structured Clinical Examination (OSCE) to obtain Nursing and Midwifery Council registration no later than 3 months after the stated employment start date, and familiarisation training will be permitted until the application for registration with the Nursing and Midwifery Council Registration is either successfully completed, otherwise closed, or 8 months, whichever is earlier;

and

(ii) will continue to be sponsored as a nurse or midwife by the Sponsor after achieving Nursing and Midwifery Council registration; and

(iii) will be paid at least £20,800 per year once that registration is achieved;

and the applicant or his Sponsor provides evidence of the above, if requested to do so.

79B. No points will be awarded for appropriate salary if the salary referred to in paragraph 79 above is less than the appropriate rate for the job as stated in the codes of practice in Appendix J, unless the applicant is an established entertainer as defined in paragraph 6 of these Rules.

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

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

NB: This pack does not include the provisions relating to the Tier 2 (General) limit or monthly allocations.

105-112

Attributes for Tier 5 (Temporary Worker) Migrants

105. An applicant applying for entry clearance or leave enter or remain as a Tier 5 (Temporary Worker) Migrant must score 30 points for attributes.

106. Available points are shown in Table 15 below.

107. Notes to accompany Table 15 appear below in that table.

Table 15

Criterion	Points awarded
Holds a Tier 5 (Temporary Worker) Certificate of Sponsorship	30

Notes

108. In order to meet the 'holds a Certificate of Sponsorship' requirement, the applicant will provide a valid Certificate of Sponsorship reference number for sponsorship in this category.

109. A Certificate of Sponsorship reference number will only be considered to be valid if the number supplied links to a Certificate of Sponsorship Checking Service reference that names the applicant as the migrant and confirms that the Sponsor is sponsoring him as a Tier 5(Temporary Worker) Migrant in the subcategory indicated by the migrant in his application for entry clearance or leave.

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, unless the migrant is applying for leave to enter and has previously been granted leave to enter using the same Certificate of Sponsorship reference number,

(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,

(c) that reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since it was assigned, and

(d) the Sponsor is an A-rated sponsor, unless the application is for leave to remain and the applicant has, or was last granted, leave as a Tier 5 Migrant, an Overseas Government Employee or a Qualifying Work Permit Holder.

110. The migrant must not previously have applied for entry clearance or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn).

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

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

(i) The Certificate of Sponsorship Checking Service entry shows that the applicant has been endorsed by the Governing Body for his sport (that is, the organisation which is specified in Appendix M as being the Governing Body for the sport in question), and

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

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

(i) where a relevant creative sector Codes of Practice exists in Appendix J, the Sponsor has complied with that Code of Practice; or

(ii) where no relevant creative sector Codes of Practice exists in Appendix J, the Sponsor has otherwise taken into account the needs of the resident labour market in that field, and the work could not be carried out by a suitable settled worker.

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

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

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

(iii) not a permanent position.

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

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

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

(2) may include preaching, pastoral work and

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

- (iii) if the Sponsor's organisation is a religious order, that the applicant is a member of that order;
 - (iv) that the applicant will receive pay and conditions at least equal to those given to settled workers in the same role,
 - (v) that the remuneration complies with or is exempt from National Minimum Wage regulations, and provides details of the remuneration,
 - (vi) details of how the resident labour market test has been complied with or why the role is exempt from the test, as set out in paragraph 92A of this Appendix.
- (e) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Government Authorised Exchange subcategory, if the entry confirms that the work, volunteering or job shadowing the applicant is being sponsored to do:
- (i) meets the requirements of the individual exchange scheme, as set out in Appendix N,
 - (ii) does not fill a vacancy in the workforce,
 - (iii) is skilled to National Qualifications Framework level 3, as stated in the codes of practice in Appendix J, unless the applicant is being sponsored under an individual exchange scheme set up as part of the European Commission's Lifelong Learning Programme,
 - (iv) conforms with all relevant UK and EU legislation, such as the National Minimum Wage Act and the Working Time Directive.
- (f) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the International Agreement subcategory and the applicant is applying for entry clearance or leave to enter or remain for the purpose of work as a Contractual Service Supplier, or Independent Professional if either:
- (i) the work is pursuant to a contract to supply services to the sponsor in the United Kingdom by an overseas undertaking established on the territory of a party to the General Agreement on Trade in Services or a similar trade agreement which has been concluded between the EU and another party or parties and which is in force, and which has no commercial presence in the European Union; and
 - (ii) the service which that undertaking is contracted to supply to the sponsor in the United Kingdom is a service falling within the scope of the sectors specified in the relevant commitments in respect of Contractual Service Suppliers or Independent Professionals as set out in the agreements mentioned at (i) above; and
 - (iii) the sponsor has, through an open tendering procedure or other procedure which guarantees the bona fide character of the contract, awarded a services contract for a period not exceeding 12 months to the applicant's employer; and
 - (iv) the sponsor will be the final consumer of the services provided under that contract; and
 - (v) the applicant is a national of the country in which the overseas undertaking is established; and
 - (vi) where the applicant is a Contractual Service Supplier, he possesses:
 - (1) a university degree or a technical qualification demonstrating knowledge of an equivalent level, and provides the original certificate of that qualification, except where (4) applies;
 - (2) where they are required by any relevant law, regulations or requirements in force in the United Kingdom in order to exercise the activity in question, professional qualifications;
 - (3) 3 years' professional experience in the sector concerned, except where (4) applies; and
 - (4) (_a) in the case of advertising and translation services, relevant qualifications and 3 years' professional experience, and provides the original certificate of those qualifications;
 - (_b) in the case of management consulting services and services related to management consulting (managers and senior consultants), a university degree and 3 years professional experience, and provides the original certificate of that qualification;

(c) in the case of technical testing and analysis services, a university degree or technical qualifications demonstrating technical knowledge and 3 years professional experience, and provides the original certificate of that qualification;

(d) in the case of fashion model services and entertainment services other than audiovisual services, 3 years' relevant experience;

(e) in the case of chef de cuisine services, an advanced technical qualification and 6 years' relevant experience at the level of chef de cuisine, and provides the original certificate of that qualification; and

(vii) where the applicant is a Contractual Service Supplier, he has been employed, and provides the specified documents in paragraph 111-SD to show that he has been employed, by the service supplier for a period of at least one year immediately prior to the date of application; or

(viii) where the applicant is an Independent Professional, he possesses:

(1) a university degree or a technical qualification demonstrating knowledge of an equivalent level, and provide the original certificate of that qualification,

(2) where they are required by any relevant law, regulations or requirements in force in the United Kingdom in order to exercise the activity in question, professional qualifications; and

(3) at least six years professional experience in the sector concerned; or

(ix) the applicant is applying for leave to remain and holds a Certificate of Sponsorship issued in the International Agreement sub-category by the same sponsor, and for the purpose of the same contract to supply services, as was the case when the applicant was last granted entry clearance, leave to enter or remain.

(g) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the International Agreement subcategory and the applicant is coming for a purpose other than work as a Contractual Service Supplier, or Independent Profession if the entry confirms that applicant is being sponsored:

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

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

(iii) as a private servant in a diplomatic household under the provisions of the Vienna Convention on Diplomatic Relations, 1961, or in the household of an employee of an international organisation recognised by Her Majesty's Government, who enjoys certain privileges or immunity under UK or international law, and confirms the name of the individual who is employing them.

111-SD (a) Where paragraph 111(f)(vii) refers to specified documents, those specified documents are:

(i) original formal payslips issued by the employer and showing the employer's name; or

(ii) payslips accompanied by a letter from the applicant's employer, on the employer's headed paper and signed by a senior official, confirming the payslips are authentic; or

(iii) Personal bank or building society statements covering the full specified period, which clearly show:

(1) the applicant's name,

(2) the account number,

(3) the date of the statement (The most recent statement must be dated no earlier than 31 days before the date of the application),

(4) the financial institution's name and logo, and

(5) transactions by the service supplier covering the full specified period;

or

(iv) A building society pass book, which clearly shows:

- (1) the applicant's name,
- (2) the account number,
- (3) the financial institution's name and logo, and
- (4) transactions by the service supplier covering the full specified period.

(b) If the applicant provides the bank or building society statements in (a)(iii):

(i) The statements must:

- (1) be printed on paper bearing the bank or building society's letterhead,
- (2) bear the official stamp of the bank on every page, or
- (3) be accompanied by a supporting letter from the issuing bank or building society, on company headed paper, confirming the authenticity of the statements provided;

(ii) The statements must not be mini-statements obtained from an Automated Teller Machine.

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.

113-120A

Attributes for Tier 4 (General) Students

113. An applicant applying for entry clearance or leave to remain as a Tier 4 (General) Student must score 30 points for attributes.

114. Available points are shown in Table 16 below.

115. Notes to accompany Table 16 appear below that table.

Table 16

Criterion	Points awarded
Confirmation of Acceptance for Studies	30

Notes

115A. In order to obtain points for a Confirmation of Acceptance for Studies, the applicant must provide a valid Confirmation of Acceptance for Studies reference number.

116. A Confirmation of Acceptance for Studies will only be considered to be valid if:

- (a) it was issued no more than 6 months before the application 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 course of study as stated on the Confirmation of Acceptance for Studies,
- (c) the Sponsor has not withdrawn the offer since the Confirmation of Acceptance for Studies was issued,
- (d) it was issued by an institution with a Tier 4 (General) Student Sponsor Licence,
- (da) where the application for entry clearance or leave to remain is for the applicant to commence a new course of study, not for completion of a course already commenced by way of re-sitting examinations or repeating a module of a course, the Sponsor must not be a Legacy Sponsor,

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

(e) the institution must still hold such a licence at the time the application for entry clearance or leave to remain is determined

(ea) the migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Confirmation of Acceptance for Studies reference number where that application was either approved or refused (not rejected as an invalid application declared void or withdrawn),

(f) it contains the following mandatory information:

(i) the applicant's:

- (1) name,
- (2) date of birth,
- (3) gender,
- (4) nationality, and
- (5) passport number;

(ii) the course:

- (1) title,
- (2) level,
- (3) start and end dates, and
- (4) hours per week, including confirmation that the course is full-time;

(iii) confirmation if the course is one in which the applicant must hold a valid Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office;

(iv) confirmation if the course is a recognised Foundation Programme for postgraduate doctors or dentists, and requires a certificate from the Postgraduate Dean;

(v) the main study address;

(vi) details of how the Tier 4 Sponsor has assessed the applicant's English language ability including, where relevant, the applicant's English language test scores in all four components (reading, writing, speaking and listening);

(vii) details of any work placements relating to the course;

(viii) accommodation, fees and boarding costs;

(ix) details of any partner institution, if the course will be provided by an education provider that is not the Tier 4 Sponsor; and

(x) the name and address of the overseas higher education institution, if the course is part of a study abroad programme.

(g) it was not issued for a course of studies, it was issued for a full-time, salaried, elected executive position as a student union sabbatical officer to an applicant who is part-way through their studies or who is being sponsored to fill the position in the academic year immediately after their graduation,

(h) it was not issued for a course of studies, it was issued within 60 days of the expected end date of a course leading to the award of a PhD and the migrant is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council, to enable the migrant to remain in the UK as a Tier 4 (General) Student on the doctorate extension scheme.

117. A Confirmation of Acceptance for Studies reference number will only be considered to be valid if:

(a) the number supplied links to a Confirmation of Acceptance for Studies Checking Service entry that names the applicant as the migrant and confirms that the Sponsor is sponsoring him in the Tier 4 category indicated by the migrant in his application for leave to remain (that is, as a Tier 4 (General) Student or a Tier 4 (Child) Student), and

(b) that reference number must not have been withdrawn or cancelled by the Sponsor or the Home Office since it was assigned.

118. No points will be awarded for a Confirmation of Acceptance for Studies unless:

(a) the applicant supplies, as evidence of previous qualifications, the specified documents, as set out in paragraph 120-SD(a), that the applicant used to obtain the offer of a place on a course from the Sponsor unless the applicant is sponsored by a sponsor with Tier 4 Sponsor status, is a national of one of the countries or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate, listed in Appendix H, and is applying for entry clearance in his country of nationality or in the territory related to the passport he holds, as appropriate, or leave to remain in the UK. The Home Office reserves the right to request the specified documents from these applicants. The application will be refused if the specified documents are not provided in accordance with the request made; and

(b) One of the requirements in (i) to (iii) below is met:

(i) the course is degree level study and the Confirmation of Acceptance for Studies has been assigned by a Sponsor which is a Recognised Body or a body in receipt of funding as a higher education institution from the Department for Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales, or the Scottish Funding Council, and:

(1) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America, and provides the specified documents set out in paragraph 120-SD(b); or

(2) has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, from an educational establishment in one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA, and provides the specified documents set out in paragraph 120-SD(a); or

(3) the applicant has successfully completed a course as a Tier 4 (Child) Student (or under the student rules that were in force before 31 March 2009, where the student was granted permission to stay whilst he was under 18 years old) which:

i. was at least six months in length, and

ii. ended within two years of the date the sponsor assigned the Confirmation of Acceptance for Studies; or

(4) the Confirmation of Acceptance for Studies Checking Service entry confirms that the applicant has a knowledge of English equivalent to level B2 of the Council of Europe's Common European Framework for Language Learning in all four components (reading, writing, speaking and listening), or above, or that the Sponsor is satisfied that on completion of a pre-sessional course as provided for in paragraph 120(b)(i) of this Appendix, the applicant will have a knowledge of English as set out in this paragraph; or

(ii) the course is degree level study and the Confirmation of Acceptance for Studies has been assigned by a Sponsor which is not a Recognised Body or is not a body in receipt of funding as a higher education institution from the Department for Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales, or the Scottish Funding Council, and:

(1) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America, and provides the specified documents set out in paragraph 120-SD(b); or

(2) has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, from an educational establishment in one of the following countries: Antigua and

Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA, and provides the specified documents set out in paragraph 120-SD(a); or

(3) the applicant has successfully completed a course as a Tier 4 (Child) Student (or under the student rules that were in force before 31 March 2009, where the student was granted permission to stay whilst he was under 18 years old) which:

i. was at least six months in length, and

ii. ended within two years of the date the sponsor assigned the Confirmation of Acceptance for Studies; or

(4) the applicant provides the specified documents from an English language test provider approved by the Secretary of State for these purposes as listed in Appendix O, which clearly show:

i. the applicant's name,

ii. that the applicant has achieved or exceeded level B2 of the Council of Europe's Common European Framework for Language learning in all four components (reading, writing, speaking and listening), unless exempted from sitting a component on the basis of the applicant's disability,

iii. the date of the award, and

iv. that the test is within its validity date (where applicable), and

v. the test centre at which the test was taken is approved by the Secretary of State as a Secure English Language Test Centre.

Or

(iii) the course is for below degree level study and:

(1) the applicant is a national of one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; United States of America, and provides the specified documents set out in paragraph 120-SD(b); or

(2) has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, from an educational establishment in one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA, and provides the specified documents set out in paragraph 120-SD(a); or

(3) the applicant has successfully completed a course as a Tier 4 (Child) student (or under the student rules that were in force before 31 March 2009, where the student was granted permission to stay whilst he was under 18 years old) which:

i. was at least six months in length, and

ii. ended within two years of the date the sponsor assigned the Confirmation of Acceptance for Studies; or

(4) the applicant provides the specified documents from an English language test provider approved by the Secretary of State for these purposes as listed in Appendix O, which clearly show:

i. the applicant's name,

ii. that the applicant has achieved or exceeded level B1 of the Council of Europe's Common European Framework for Language learning in all four components (reading, writing, speaking and listening), unless exempted from sitting a component on the basis of the applicant's disability,

iii. the date of the award, and

iv. that the test is within its validity date (where applicable)."

119. 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, unless the Sponsor has Tier 4 Sponsor status. If this requirement is not met then no points will be awarded for the Confirmation of Acceptance for Studies, unless the Sponsor has Tier 4 Sponsor status.

120. Points will only be awarded for a Confirmation of Acceptance for Studies (even if all the requirements in paragraphs 116 to 119 above are met) if the course in respect of which it is issued meets each of the following requirements:

(a) The course must meet the following minimum academic requirements:

i. for applicants applying to study in England, Wales or Northern Ireland, the course must be at National Qualifications Framework (NQF) / Qualifications and Credit Framework (QCF) Level 3 or above if the Sponsor has Tier 4 Sponsor status; or

ii. for applicants applying to study in England, Wales or Northern Ireland, the course must be at National Qualifications Framework (NQF) / Qualifications and Credit Framework (QCF) Level 4 or above if the sponsor has Probationary Sponsor status;; or

iii. for applicants applying to study in Scotland, the course must be accredited at Level 6 or above in the Scottish Credit and Qualifications Framework (SCQF) by the Scottish Qualifications Authority and the Sponsor must be a Highly Trusted Sponsor; or

iv. for applicants applying to study in Scotland, the course must be accredited at Level 7 or above in the Scottish Credit and Qualifications Framework (SCQF) by the Scottish Qualifications Authority if the Sponsor if the sponsor has Probationary Sponsor status; or

v. the course must be a short-term Study Abroad Programme in the United Kingdom as part of the applicant's qualification at an overseas higher education institution, and that qualification must be confirmed as the same as a United Kingdom degree level by the National Recognition Information Centre for the United Kingdom (UK NARIC); or

vi. the course must be an English language course at level B2 or above of the Common European Framework of Reference for Languages; or

vii. the course must be a recognised Foundation Programme for postgraduate doctors or dentists.

(b) The Confirmation of Acceptance for Studies must be for a single course of study except where the Confirmation of Acceptance for Studies is:

(i) issued by a Sponsor which is a Recognised Body or a body in receipt of funding as a higher education institution from the Department for Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales, or the Scottish Funding Council to cover both a pre-sessional course of no longer than three months' duration and a course of degree level study at that Sponsor; and

(ii) the applicant has an unconditional offer of a place on a course of degree level study at that Sponsor or that where the offer is made in respect of an applicant whose knowledge of English is not at B2 level of the Council of Europe's Common European Framework for Language Learning in all four components (reading, writing, speaking and listening) or above, the Sponsor is satisfied that on completion of a pre-sessional course as provided for in (i) above, the applicant will have a knowledge of English at as set out in this paragraph; and

(iii) the course of degree level study commences no later than one month after the end date of the pre-sessional course.

(c) The course must, except in the case of a pre-sessional course, lead to an approved qualification as defined in (cb) below.

(ca) If a student is specifically studying towards an Association of Certified Chartered Accountants (ACCA) qualification or an ACCA Foundations in Accountancy qualification, the sponsor must be an ACCA approved learning partner - student tuition (ALP-st) at either Gold or Platinum level.

(cb) An approved qualification is one that is:

- (1) validated by Royal Charter,
 - (2) awarded by a body that is on the list of recognised bodies produced by the Department for Business, Innovation and Skills,
 - (3) recognised by one or more recognised bodies through a formal articulation agreement with the awarding body,
 - (4) in England, Wales and Northern Ireland, on the Register of Regulated Qualifications (<http://register.ofqual.gov.uk/>) at National Qualifications Framework (NQF) / Qualifications and Credit Framework (QCF) level 3 or above,
 - (5) in Scotland, accredited at Level 6 or above in the Scottish Credit and Qualifications Framework (SCQF) by the Scottish Qualifications Authority,
 - (6) an overseas qualification that UK NARIC assesses as valid and equivalent to National Qualifications Framework (NQF) / Qualifications and Credit Framework (QCF) level 3 or above, or
 - (7) covered by a formal legal agreement between a UK-recognised body and another education provider or awarding body. An authorised signatory for institutional agreements within the recognised body must sign this. The agreement must confirm the recognised body's own independent assessment of the level of the Tier 4 Sponsor's or the awarding body's programme compared to the National Qualifications Framework (NQF) / Qualifications and Credit Framework (QCF) or its equivalents. It must also state that the recognised body would admit any student who successfully completes the Tier 4 Sponsor's or the awarding body's named course onto a specific or a range of degree-level courses it offers.
- (d) Other than when the applicant is on a course-related work placement or a pre-sessional course, all study that forms part of the course must take place on the premises of the sponsoring educational institution or an institution which is a partner institution of the migrant's Sponsor.
- (e) The course must meet one of the following requirements:
- i. be a full time course of degree level study that leads to an approved qualification as defined in (cb) above;
 - 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; or
 - iii. be a full time course of study involving a minimum of 15 hours per week organised daytime study and, except in the case of a pre-sessional course, lead to an approved qualification, below bachelor degree level as defined in (cb) above.
- (f) Where the student is following a course of below degree level study including course –related work placement, the course can only be offered by a sponsor with Tier 4 sponsor status. If the course contains a course-related work placement, any period that the applicant will be spending on that placement must not exceed one third of the total length of the course spent in the United Kingdom except :
- (i) where it is a United Kingdom statutory requirement that the placement should exceed one third of the total length of the course; or
 - (ii) where the placement does not exceed one half of the total length of the course undertaken in the UK and the student is following a course of degree level study and is either:
 - (a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department of Employment and Learning in Northern Ireland, the Higher Education Funding Council for England, the Higher Education Funding Council for Wales or the Scottish Funding Council; or
 - (b) sponsored by an overseas higher education institution to undertake a short-term Study Abroad Programme in the United Kingdom.

Specified documents

120-SD. Where paragraphs 118 to 120 of this Appendix refer to specified documents, those specified documents are as follows:

(a) In the case of evidence relating to previous qualifications, the applicant must provide, for each qualification, either:

(i) The original certificate(s) of qualification, which clearly shows:

- (1) the applicant's name,
- (2) the title of the award,
- (3) the date of the award, and
- (4) the name of the awarding institution;

(ii) The transcript of results, which clearly shows:

- (1) the applicant's name,
- (2) the name of the academic institution,
- (3) their course title, and
- (4) confirmation of the award;

This transcript must be original unless the applicant has applied for their course through UCAS (Universities and Colleges Admissions Service), and:

(a) the applicant is applying in the UK to study at a Higher Education Institution which has Highly Trusted Sponsor status, and

(b) the qualification is issued by a UK awarding body for a course that the applicant has studied in the UK;

or

(iii) If the applicant's Tier 4 sponsor has assessed the applicant by using one or more references, and the Confirmation of Acceptance for Studies Checking Service entry includes details of the references assessed, the original reference(s) (or a copy, together with an original letter from the Tier 4 sponsor confirming it is a true copy of the reference they assessed), which must contain:

- (1) the applicant's name,
- (2) confirmation of the type and level of course or previous experience; and dates of study or previous experience,
- (3) date of the letter, and
- (4) contact details of the referee.

(b) In the case of evidence of the applicant's nationality, the specified documents are the applicant's current valid original passport or travel document. If the applicant is unable to provide this, the UK Border Agency may exceptionally consider this requirement to have been met where the applicant provides full reasons in the passport section of the application form, and either:

- (1) a current national identity document, or
- (2) an original letter from his home government or embassy, on the letter-headed paper of the government or embassy, which has been issued by an authorised official of that institution and confirms the applicant's full name, date of birth and nationality.

120A(a). Points will only be awarded for a valid Confirmation of Acceptance for Studies (even if all the requirements in paragraphs 116 to 120A above are met) if the Sponsor has confirmed that the course for which the Confirmation of Acceptance for Studies has been assigned represents academic progress from previous study, as defined in (b) below undertaken during the last period of leave as a Tier 4 (General) Student or as a Student where the applicant has had such leave, except where:

(i) the applicant is re-sitting examinations or repeating modules in accordance with paragraph 119 above, or

(ii) the applicant is making a first application to move to a new institution to complete a course commenced elsewhere.

(b) For a course to represent academic progress from previous study, the course must:

(i) be above the level of the previous course for which the applicant was granted leave as a Tier 4 (General) Student or as a Student, or

(ii) involve further study at the same level, which the Tier 4 Sponsor confirms as complementing the previous course for which the applicant was granted leave as a Tier 4 (General) Student or as a Student.

Appendix AR – Administrative Review

Introduction

Administrative review is available where an eligible decision has been made. Decisions eligible for administrative review are listed in paragraphs AR3.2, AR4.2 or AR5.2 of this Appendix.

Administrative review will consider whether an eligible decision is wrong because of a case working error and, if it is considered to be wrong, the decision will be withdrawn or amended as set out in paragraph AR2.2 of this Appendix.

Rules about how to make a valid application for administrative review are set out at paragraphs 34M to 34Y of these Rules.

...

Administrative Review in the UK

Decisions eligible for administrative review in the United Kingdom

AR3.1 Administrative review is only available where an *eligible decision* has been made.

AR3.2 Subject to paragraph AR3.4, an *eligible decision* is:

- (a) A decision on an application made on or after 20th October 2014 for leave to remain as:
 - (i) a Tier 4 Migrant under the Points Based System; or
 - (ii) the partner of a Tier 4 Migrant under paragraph 319C of the Immigration Rules; or
 - (iii) the child of a Tier 4 Migrant under paragraph 319H of the Immigration Rules.

- (b) A decision on an application made on or after 2nd March 2015 for leave to remain, as:
 - (i) a Tier 1, 2 or 5 Migrant under the Points Based System; or
 - (ii) the partner of a Tier 1, 2 or 5 Migrant under paragraphs 319C or 319E of the Immigration Rules; or
 - (iii) the child of a Tier 1, 2 or 5 Migrant under paragraphs 319H or 319J of the Immigration Rules.

- (c) A decision on an application for leave to remain made under these Rules on or after 6th April 2015 unless it is an application as a visitor, or where an application or human rights claim is made under:
 - (i) Paragraph 276B (long residence);
 - (ii) Paragraphs 276ADE(1) or 276DE (private life);
 - (iii) Paragraphs 276U and 276AA (partner or child of a member of HM Forces);

- (iv) Paragraphs 276AD and 276AG (partner or child of a member of HM Forces) where the sponsor is a foreign or Commonwealth member of HM Forces and has at least 4 years' reckonable service in HM Forces at the date of application;
 - (v) Part 8 of these Rules (family members) where the sponsor is present and settled in the UK (unless the application is made under paragraphs 319AA to 319J of these Rules, or under paragraph 284, 287, 295D or 295G where the sponsor was granted settlement as a Points Based System Migrant) or has refugee or humanitarian protection status in the UK;
 - (vi) Part 11 of these Rules (asylum);
 - (vii) Part 4 or Part 7 of Appendix Armed Forces (partner or child of a member of HM Forces) where the sponsor is a British Citizen or has at least 4 years' reckonable service in HM Forces at the date of application;
 - (viii) Appendix FM (family members), but not where an application is made under section BPILR (bereavement) or section DVILR (domestic violence), in which case the appropriate remedy is an appeal under section 82 of the Nationality, Immigration and Asylum Act 2002 rather than an application for administrative review.
- (d) A decision on an application made on or after 6th April 2015 for leave to remain made by a Turkish national or their family member pursuant to the UK's obligations under Article 41 of the Additional Protocol to the European Community Association Agreement (ECAA) with Turkey, and under Article 6(1) of Decision 1/80 of the Association Council established by that agreement.

AR3.3 An *eligible decision* in paragraph AR3.2 is either a decision to refuse an application for leave to remain or a decision to grant leave to remain where a review is requested of the period or conditions of leave granted.

AR3.4 Where the applicant has been given notice of liability for removal within six months prior to the date of application, then the refusal of that application will not be an *eligible decision*.

Administrative Review on arrival in the UK

Decisions eligible for administrative review on arrival in the United Kingdom

AR4.1 Administrative review is only available where an *eligible decision* has been made.

AR4.2 An *eligible decision* is a decision made on or after 6th April 2015 to cancel leave to enter or remain with the result that the applicant has no leave to enter or remain, where the reason for cancellation is:

- (a) there has been such a change of circumstances in the applicant's case since that leave was given that it should be cancelled;
- (b) the leave was obtained as a result of false information given by the applicant or the applicant's failure to disclose material facts.

AR4.3 Where the *eligible decision* is made in the *Control Zone*, administrative review may not be applied for and will not be considered until after the applicant has left or been removed from the *Control Zone*.

Administrative Review overseas

Decisions eligible for administrative review overseas

AR5.1 Administrative review is only available where an *eligible decision* has been made.

AR5.2 (a) An *eligible decision* is a refusal of an application for entry clearance made on or after 6th April 2015 under the Rules unless it is an application under Part 3 of these Rules (short-term students) or as a visitor, or where an application or human rights claim is made under:

- (i) Paragraphs 276R and 276X (partner or child of a member of HM Forces);
- (ii) Paragraphs 276AD and 276AG (partner or child of a member of HM Forces) where the sponsor is a foreign or Commonwealth member of HM Forces and has at least 4 years' reckonable service in HM Forces at the date of application;
- (iii) Part 8 of these Rules (family members) where the sponsor is present and settled in the UK (unless the application is made under paragraphs 319AA to 319J of these Rules) or has refugee or humanitarian protection status in the UK;
- (iv) Part 11 of these Rules (asylum);
- (v) Part 4 or Part 7 of Appendix Armed Forces (partner or child of a member of HM Forces) where the sponsor is a British Citizen or has at least 4 years' reckonable service in HM Forces at the date of application;
- (vi) Appendix FM (family members),

in which case the appropriate remedy is an appeal under section 82 of the Nationality, Immigration and Asylum Act 2002 rather than an application for administrative review.

(b) An *eligible decision* is also a refusal of an application for entry clearance made on or after 6th April 2015 by a Turkish national or their family member pursuant to the UK's obligations under Article 41 of the Additional Protocol to the European Community Association Agreement (ECAA) with Turkey.

Appendix B - English language

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

- (i) as a Tier 1 (Exceptional Talent) Migrant,
- (ii) as a Tier 1 (Investor) Migrant, or
- (iii) as a Tier 2 (Intra-Company Transfer) Migrant.

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

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

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

Table 1
Level of English language required to score points

Tier 1

Row	Category	Applications	Level of English language required
B	Tier 1 (Entrepreneur)	Entry clearance and leave to remain	A knowledge of English equivalent to level B1 or above of the Council of Europe's Common European Framework for Language Learning
C	Tier 1 (Graduate Entrepreneur)	Entry clearance and leave to remain	A knowledge of English equivalent to level B1 or above of the Council of Europe's Common European Framework for Language Learning

Tier 2

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

Notes

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

(i) he previously had leave as:

(1) a Tier 2 (General) Migrant under the rules in place before 6 April 2011,

(2) a Qualifying Work Permit Holder,

(3) a representative of an overseas newspaper, news agency or Broadcasting organisation,

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

(5) a Jewish Agency Employee,

and

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

Table 2
Points available for English language

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

Notes

National of a majority English speaking country

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

(i) is a national of one of the following countries:

Antigua and Barbuda

Australia

The Bahamas

Barbados

Belize

Canada

Dominica

Grenada

Guyana

Jamaica

New Zealand

St Kitts and Nevis

St Lucia

St Vincent and the Grenadines

Trinidad and Tobago

USA

and

(ii) provides his current valid original passport or travel document to show that this requirement is met. If the applicant is unable to do so, the UK Border Agency may exceptionally consider this requirement to have been met where the applicant provides full reasons in the passport section of the application form, and either:

(1) a current national identity document, or

(2) an original letter from his home government or embassy, on the letter-headed paper of the government or embassy, which has been issued by an authorised official of that institution and confirms the applicant's full name, date of birth and nationality.

Degree taught in English

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

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

(1) is deemed by UK NARIC to meet the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level C1 of the Council of Europe's Common European Framework for Language learning or above

or:

(2) is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, and is from an educational establishment in one of the following countries:

Antigua and Barbuda
Australia
The Bahamas
Barbados
Belize
Dominica
Grenada
Guyana
Ireland
Jamaica
New Zealand
St Kitts and Nevis
St Lucia
St Vincent and The Grenadines
Trinidad and Tobago
the UK
the USA,

and

(ii) provides the following specified documents to show he has the qualification:

(1) the original certificate of the award, or

(2) if the applicant is awaiting graduation having successfully completed the qualification, or no longer has the certificate and the awarding institution is unable to provide a replacement, an academic transcript (or original letter in the case of a PhD qualification) from the awarding institution on its official headed paper, which clearly shows:

(a) the applicant's name,

(b) the name of the awarding institution,

(c) the title of the award,

(d) confirmation that the qualification has been or will be awarded, and

(e) the date that the certificate will be issued (if the applicant has not yet graduated) or confirmation that the institution is unable to reissue the original certificate or award.

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

(i) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK,

(ii) provides the specified documents in paragraph 7(ii) evidence to show that he has the qualification, and

(iii) provides provide an original letter from the awarding institution on its official headed paper, which clearly shows:

- (1) the applicant's name,
- (2) the name of the awarding institution,
- (3) the title of the award,
- (4) the date of the award, and
- (5) confirmation that the qualification was taught in English.

9. An applicant for entry clearance or leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant does not need to provide evidence of a qualification taught in English if:

(a) the applicant scores points from Appendix A for an endorsement by the UK Higher Education Institution which awarded the qualification; and

(b) the endorsement letter contains the specified details of the qualification, as set out in paragraph 70(c) of Appendix A..

Passed an English language test

10. 10 points will only be awarded for passing an English language test if the applicant has the relevant level of English language shown in Table 1 and provides the specified documents from an English language test provider approved by the Secretary of State for these purposes, as listed in Appendix O, for a test taken at a test centre approved by the Secretary of State as a Secure English Language Test centre, which clearly show:

- (1) the applicant's name,
- (2) the qualification obtained, which must meet or exceed the relevant level shown in Table 1 in all four components (reading, writing, speaking and listening), unless the applicant was exempted from sitting a component on the basis of his disability,
- (3) the date of the award,
- (4) the test centre at which the test was taken, and
- (5) that the test is within its validity date (where applicable)..

Met requirement in a previous grant of leave

11. Subject to paragraph 15 below, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant:

(i) has ever been granted leave as a Tier 1 (General) Migrant, a Tier 1 (Entrepreneur) Migrant or Business person, or a Tier 1 (Post-Study Work) Migrant, or

(ii) has ever been granted leave as a Highly Skilled Migrant under the Rules in place on or after 5 December 2006.

12. Subject to paragraph 15 below, where the application falls under rows B to H of Table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted leave:

(a) as a Minister of Religion (not as a Tier 2 (Minister of Religion) Migrant) under the Rules in place on or after 19 April 2007,

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

(c) as a Tier 4 (General) student, and the Confirmation of Acceptance for Studies used to support that application was assigned on or after 21 April 2011 for a course of at least degree level study.

13. Subject to paragraph 15 below, where the application falls under rows B to C or rows F to H of Table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted leave:

(a) as a Tier 1 (Graduate Entrepreneur) Migrant,

(b) as a Tier 2 (General) Migrant under the Rules in place on or after 6 April 2011, or

(c) as a Tier 4 (General) student, and the Confirmation of Acceptance for Studies used to support that application was assigned on or after 21 April 2011,

provided that when he was granted that leave he obtained points for having knowledge of English equivalent to level B1 of the Council of Europe's Common European Framework for Language Learning or above.

14. Subject to paragraph 15 below, where the application falls under rows G and H of table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted:

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

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

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

Transitional arrangements

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

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

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

(i) a Jewish Agency Employee,

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

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

(iv) a Qualifying Work Permit Holder,

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

and

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

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

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

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

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

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

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

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

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

Appendix C - Funds

Paras 1A-1B

1A. In all cases where an applicant is required to obtain points under Appendix C, the applicant must meet the requirements listed below:

- (a) The applicant must have the funds specified in the relevant part of Appendix C at the date of the application;
- (b) If the applicant is applying as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 (Temporary Worker) Migrant, the applicant must have had the funds referred to in (a) above for a consecutive 90-day period of time, unless applying as a Tier 1 (Exceptional Talent) Migrant or a Tier 1 (Investor) Migrant;
- (c) If the applicant is applying as a Tier 4 Migrant, the applicant must have had the funds referred to in (a) above for a consecutive 28-day period of time;
- (ca) If the applicant is applying for entry clearance or leave to remain as a Tier 4 Migrant, he must confirm that the funds referred to in (a) above are:
 - (i) available in the manner specified in paragraph 13 below for his use in studying and living in the UK; and
 - (ii) that the funds will remain available in the manner specified in paragraph 13 below unless used to pay for course fees and living costs;
- (d) If the funds were obtained when the applicant was in the UK, the funds must have been obtained while the applicant had valid leave and was not acting in breach of any conditions attached to that leave;
- (e) Where the funds are in one or more foreign currencies, the applicant must have the specified level of funds when converted to pound sterling (£) using the spot exchange rate which appears on www.oanda.com* for the date of the application;
- (f) Where the applicant is applying as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant, the funds must have been under his own control on the date of the application and for the period specified in (b) above; and
- (g) Where the application is made at the same time as applications by the partner or child of the applicant (such that the applicant is a Relevant Points Based System Migrant for the purposes of paragraph 319AA), each applicant must have the total requisite funds specified in the relevant parts of appendices C and E. If each applicant does not individually meet the requirements of appendices C and / or E, as appropriate, all the applications (the application by the Relevant Points Based System Migrant and applications as the partner or child of that relevant Points Based system Migrant) will be refused.
- (h) the end date of the 90-day and 28-day periods referred to in (b) and (c) above will be taken as the date of the closing balance on the most recent of the specified documents (where specified documents from two or more accounts are submitted, this will be the end date for the account that most favours the applicant), and must be no earlier than 31 days before the date of application.
- (i) No points will be awarded where the specified documents show that the funds are held in a financial institution listed in Appendix P as being an institution with which the UK Border Agency is unable to make satisfactory verification checks.
- (j) Maintenance must be in the form of cash funds. Other accounts or financial instruments such as shares, bonds, pension funds etc, regardless of notice period are not acceptable.
- (k) If the applicant wishes to rely on a joint account as evidence of available funds, the applicant (or for children under 18 years of age, the applicant's parent or legal guardian who is legally present in the United Kingdom) must be named on the account as one of the account holders.
- (l) Overdraft facilities will not be considered towards funds that are available or under an applicant's own control.

1B. In all cases where Appendix C or Appendix E states that an applicant is required to provide specified documents, the specified documents are:

(a) Personal bank or building society statements which satisfy the following requirements:

(i) The statements must cover:

(1) a consecutive 90-day period of time, if the applicant is applying as a Tier 1 Migrant, a Tier 2 Migrant a Tier 5 (Temporary Worker) Migrant, or the Partner or Child of a Relevant Points Based System Migrant in any of these categories,

(2) a single date within 31 days of the date of the application, if the applicant is applying as a Tier 5 (Youth Mobility Scheme) Migrant, or

(3) a consecutive 28-day period of time, if the applicant is applying as a Tier 4 Migrant or the Partner or Child of a Relevant Points Based System Migrant who is a Tier 4 Migrant

(ii) The most recent statement must be dated no earlier than 31 days before the date of the application;

(iii) The statements must clearly show:

(1) the name of:

_i. the applicant,

_ii the applicant's parent(s) or legal guardian's name, if the applicant is applying as Tier 4 Migrant,

_iii. the name of the Relevant Points-Based System Migrant, if the applicant is applying as a Partner or Child of a Relevant Points-Based System Migrant, or

_iv. the name of the applicant's other parent who is legally present in the UK, if the applicant is applying as a Child of a Relevant Points-Based System Migrant,

(2) the account number,

(3) the date of each statement,

(4) the financial institution's name,

(5) the financial institution's logo,

(6) any transactions during the specified period, and

(7) that the funds in the account have been at the required level throughout the specified period;

(iv) The statements must be either:

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

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

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

(v) The statements must not be mini-statements from automatic teller machines (ATMs);

or

(b) A building society pass book which satisfies the following requirements:

(i) The building society pass book must cover:

(1) a consecutive 90-day period of time, if the applicant is applying as a Tier 1 Migrant, a Tier 2 Migrant a Tier 5 (Temporary Worker) Migrant, or the Partner or Child of a Relevant Points Based System Migrant in any of these categories,

(2) a single date within 31 days of the date of the application, if the applicant is applying as a Tier 5 (Youth Mobility Scheme) Migrant, or

(3) a consecutive 28-day period of time, if the applicant is applying as a Tier 4 Migrant or the Partner or Child of a Relevant Points Based System Migrant who is a Tier 4 Migrant

(ii) The period covered by the building society pass book must end no earlier than 31 days before the date of the application;

(iii) The building society pass book must clearly show:

(1) the name of:
_i. the applicant,
_ii the applicant's parent(s) or legal guardian's name, if the applicant is applying as Tier 4 Migrant,
_iii. the name of the Relevant Points-Based System Migrant, if the applicant is applying as a Partner or Child of a Relevant Points-Based System Migrant, or
_iv. the name of the applicant's other parent who is legally present in the UK, if the applicant is applying as a Child of a Relevant Points-Based System Migrant,

(2) the account number,
(3) the building society's name and logo,
(4) any transactions during the specified period, and
(5) that there have been enough funds in the applicant's account throughout the specified period;

or

(c) A letter from the applicant's bank or building society, or a letter from a financial institution regulated for the purpose of personal savings accounts by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) or, for overseas accounts, the official regulatory body for the country in which the institution operates and the funds are located, which satisfies the following requirements:

(i) The letter must confirm the level of funds and that they have been held for:

(1) a consecutive 90-day period of time, if the applicant is applying as a Tier 1 Migrant, a Tier 2 Migrant a Tier 5 (Temporary Worker) Migrant, or the Partner or Child of a Relevant Points Based System Migrant in any of these categories,

(2) a single date within 31 days of the date of the application, if the applicant is applying as a Tier 5 (Youth Mobility Scheme) Migrant, or

(3) a consecutive 28-day period of time, if the applicant is applying as a Tier 4 Migrant or the Partner or Child of a Relevant Points Based System Migrant who is a Tier 4 Migrant;

(ii) The period covered by the letter must end no earlier than 31 days before the date of the application;

(iii) The letter must be dated no earlier than 31 days before the date of the application;

(iv) The letter must be on the financial institution's letterhead or official stationery;

(v) The letter must clearly show:

(1) the name of:
_i. the applicant,
_ii the applicant's parent(s) or legal guardian's name, if the applicant is applying as Tier 4 Migrant,
_iii. the name of the Relevant Points-Based System Migrant, if the applicant is applying as a Partner or Child of a Relevant Points-Based System Migrant, or
_iv. the name of the applicant's other parent who is legally present in the UK, if the applicant is applying as a Child of a Relevant Points-Based System Migrant,

(2) the account number,
(3) the date of the letter,
(4) the financial institution's name and logo,
(5) the funds held in the applicant's account, and
(5) confirmation that there have been enough funds in the applicant's account throughout the specified period;

or

(d) If the applicant is applying as a Tier 4 Migrant, an original loan letter from a financial institution regulated for the purpose of student loans by either the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) or, in the case of overseas accounts, the official regulatory body for the country the institution is in and where the money is held, which is dated no more than 6 months before the date of the application and clearly shows:

- (1) the applicant's name,
- (2) the date of the letter,
- (3) the financial institution's name and logo,
- (4) the money available as a loan,
- (5) for applications for entry clearance, that the loan funds are or will be available to the applicant before he travels to the UK, unless the loan is an academic or student loan from the applicant's country's national government and will be released to the applicant on arrival in the UK,
- (6) there are no conditions placed upon the release of the loan funds to the applicant, other than him making a successful application as a Tier 4 Migrant, and
- (7) the loan is provided by the national government, the state or regional government or a government sponsored student loan company or is part of an academic or educational loans scheme.

Tier 1 Migrants

1. An applicant applying for entry clearance or leave to remain as a Tier 1 Migrant must score 10 points for funds, unless applying as a Tier 1 (Exceptional Talent) Migrant or a Tier 1 (Investor) Migrant.

2. 10 points will only be awarded if an applicant:

(a) applying for entry clearance, has the level of funds shown in the table below and provides the specified documents in paragraph 1B above, or

Category	Level of funds	Points
Tier 1 (Entrepreneur)	£3,310	10
Tier 1 (Graduate Entrepreneur)	£1,890	10

(b) applying for leave to remain, has the level of funds shown in the table below and provides the specified documents in paragraph 1B above, or

Level of funds	Points
£945	10

(c) applying as a Tier 1 (Graduate Entrepreneur) Migrant scores points from Appendix A for an endorsement from UK Trade and Investment, and UK Trade and Investment has confirmed in the endorsement letter that it has awarded funding of at least £1,890 (for entry clearance applications) or £945 (for leave to remain applications) to the applicant.

3. Where the applicant is applying as a Tier 1 (Entrepreneur) Migrant, he cannot use the same funds to score points for attributes under Appendix A and to score points for maintenance funds for himself or his dependants under this Appendix or Appendix E.

Tier 2 Migrants

4. An applicant applying for entry clearance or leave to remain as a Tier 2 Migrant must score 10 points for Funds.

5. 10 points will only be awarded if:

(a) the applicant has the level of funds shown in the table below and provides the specified documents in paragraph 1B above, or

Level of funds	Points awarded
£945	10

(b) the applicant has entry clearance, leave to enter or leave to remain as:

- (i) a Tier 2 Migrant
- (ii) a Jewish Agency Employee
- (iii) A member of the Operational Ground Staff of an Overseas-owned Airline,
- (iv) a Minister of Religion, Missionary or Member of a Religious Order,
- (v) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, or
- (vi) a Work Permit Holder, or

(c) the Sponsor is an a rated Sponsor and has certified on the Certificate of Sponsorship that, should it become necessary, it will maintain and accommodate the migrant up to the end of the first month of his employment. The Sponsor may limit the amount of the undertaking but any limit must be at least £945. Points will only be awarded if the applicant provides a valid Certificate of Sponsorship reference number with his application.

Tier 5 (Youth Mobility) Temporary Migrants

6. An applicant applying for entry clearance as a Tier 5 (Youth Mobility) Temporary Migrant must score 10 points for funds.

7. 10 points will only be awarded if an applicant has the level of funds shown in the table below and provides the specified documents in paragraph 1B above:

Level of funds	Points awarded
£1890	10

Tier 5 (Temporary Worker) Migrants

8. A migrant applying for entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant must score 10 points for funds.

9. 10 points will only be awarded if an applicant has the level of funds shown in the table below and provides the specified documents in paragraph 1B above:

Criterion	Points awarded
<p>Meets one of the following criteria:</p> <ul style="list-style-type: none"> • Has £945; or • The Sponsor is an A rated Sponsor and the Certificate of Sponsorship Checking Service confirms that the Sponsor has certified that the applicant will not claim public funds during his period of leave as a Tier 5 (Temporary Worker) Migrant. 	10

Points will only be awarded if the applicant provides a valid Certificate of Sponsorship reference number with his application.	
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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 in the manner specified in paragraph 13 *and* 13A below to the applicant. The applicant must either:

(a) provide the specified documents in paragraph 1B above to show that the funds are available to him, or

(b) where the applicant is sponsored by a sponsor with Tier 4 Sponsor status, is a national of one of the countries or the rightful holder of a qualifying passport issued by one of the relevant competent authorities, as appropriate, listed in Appendix H, and is applying for entry clearance in his country of nationality or in the territory related to the passport he holds, as appropriate, or leave to remain in the UK, confirm that the funds are available to him in the specified manner. The Home Office reserves the right to request the specified documents in paragraph 1B above from these applicants to support this confirmation. The application will be refused if the specified documents are not provided in accordance with the request made.

Criterion	Points
<p>If studying in inner London:</p> <p>i) Where the applicant does not have an established presence studying in the United Kingdom, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £1020 for each month of the course up to a maximum of nine months.</p> <p>ii) Where the applicant has an established presence studying in the United Kingdom, the applicant must have funds amounting to the course fees required either for the remaining academic year if the applicant is applying part-way through, or for the next academic year if the applicant will continue or commence a new course at the start of the next academic year, or for the entire course if it is less than a year long, plus £1020 for each month of the course up to a maximum of two months.</p>	10
<p>If studying in outer London and elsewhere in the United Kingdom:</p> <p>i) Where the applicant does not have an established presence studying in the United Kingdom, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £820 for each month of the course up to a maximum of nine months.</p> <p>ii) Where the applicant has an established presence studying in the United Kingdom, the applicant must have funds amounting to the course fees required either for the remaining academic year if the applicant is applying part-way through, or for the next academic year if the applicant will continue or commence a new course at the start of the next academic year, or for the entire course if it is less than a year long, plus £820 for each month of the course up to a maximum of two months.</p>	10

Notes

12. An applicant will be considered to be studying in inner London if the institution, or branch of the institution, at which the applicant will be studying is situated in any of the London boroughs of Camden, City of London, Hackney, Hammersmith and Fulham, Haringey, Islington, Kensington and Chelsea, Lambeth, Lewisham, Newham Southwark, Tower Hamlets, Wandsworth, or Westminster. If the applicant will be studying at more than one site, one or more of which is in inner London and one

or more outside, then the applicant will be considered to be studying in inner London if the applicant's Confirmation of Acceptance for Studies states that the applicant will be spending the majority of time studying at a site or sites situated in inner London.

12A. If the length of the applicant's course includes a part of a month, the time will be rounded up to the next full month.

13. Funds will be available to the applicant only where the specified documents show or, where permitted by these Rules, the applicant confirms that the funds are held or provided by:

- (i) the applicant (whether as a sole or joint account holder); and/or
- (ii) the applicant's parent(s) or legal guardian(s), and the parent(s) or legal guardian(s) have provided written consent that their funds may be used by the applicant in order to study in the UK; and/or
- (iii) an official financial sponsor which must be Her Majesty's Government, the applicant's home government, the British Council or any international organisation, international company, University or Independent school.

13A. In assessing whether the requirements of Appendix C, paragraph 11 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs this amount, up to a maximum of £1020, can be offset against the total maintenance requirement if he will be staying in accommodation arranged by the Tier 4 sponsor and he has paid this money to that Tier 4 sponsor.

13B. If the applicant is relying on the provisions in paragraph 13(ii) above, he must provide:

(a) one of the following original (or notarised copy) documents:

- (i) his birth certificate showing names of his parent(s),
- (ii) his certificate of adoption showing the names of both parent(s) or legal guardian, or
- (iii) a Court document naming his legal guardian;

and

(b) a letter from his parent(s) or legal guardian, confirming:

- (1) the relationship between the applicant and his parent(s) or legal guardian, and
- (2) that the parent(s) or legal guardian give their consent to the applicant using their funds to study in the UK.

13C. If the applicant has already paid all or part of the course fees to his Tier 4 Sponsor:

- (a) the Confirmation of Acceptance for Studies Checking Service entry must confirm details of the fees already paid; or
- (b) the applicant must provide an original paper receipt issued by the Tier 4 Sponsor, confirming details of the fees already paid.

13D. If the applicant has an official financial sponsor as set out in paragraph 13(iii) above:

- (a) the Confirmation of Acceptance for Studies Checking Service entry must confirm details of the official financial sponsorship, if it is the Tier 4 Sponsor who is the official financial sponsor; or
- (b) the applicant must provide a letter of confirmation from his official financial sponsor, on official letter-headed paper or stationery of that organisation and bearing the official stamp of that organisation, which clearly shows:

- (1) the applicant's name,
- (2) the name and contact details of the official financial sponsor,
- (3) the date of the letter,
- (4) the length of the official financial sponsorship, and
- (5) the amount of money the official financial sponsor is giving to the applicant, or a statement that the official financial sponsor will cover all of the applicant's fees and living costs.

14. An applicant will have an established presence studying in the UK if the applicant has current entry clearance, leave to enter or leave to remain as a Tier 4 migrant, Student or as a Postgraduate Doctor or Dentist and at the date of application:

(i) has finished a single course that was at least six months long within the applicant's last period of entry clearance, leave to enter or leave to remain, or

(ii) is applying for continued study on a single course where the applicant has completed at least six months of that course, or

(iii) is applying for leave to remain as a Tier 4 (General) Student on the doctorate extension scheme.

Appendix FM family members

Section GEN: General

Purpose

GEN.1.1. This route is for those seeking to enter or remain in the UK on the basis of their family life with a person who is a British Citizen, is settled in the UK, or is in the UK with limited leave as a refugee or person granted humanitarian protection (and the applicant cannot seek leave to enter or remain in the UK as their family member under Part 11 of these rules). It sets out the requirements to be met and, in considering applications under this route, it reflects how, under Article 8 of the Human Rights Convention, the balance will be struck between the right to respect for private and family life and the legitimate aims of protecting national security, public safety and the economic well-being of the UK; the prevention of disorder and crime; the protection of health or morals; and the protection of the rights and freedoms of others (and in doing so also reflects the relevant public interest considerations as set out in Part 5A of the Nationality, Immigration and Asylum Act 2002). It also takes into account the need to safeguard and promote the welfare of children in the UK in line with the Secretary of State's duty under section 55 of the Borders, Citizenship and Immigration Act 2009.

GEN.1.11A. In all cases where:

(a) limited leave is granted under paragraph D-LTRP.1.2., D-ILRP.1.3., DLTRPT.1.2. or D-ILRPT.1.3.; or

(b) limited leave is granted outside the rules on Article 8 grounds under paragraph GEN.1.10. or GEN.1.11.,

leave will normally be granted subject to a condition of no recourse to public funds, unless the applicant has provided the decision-maker with (i) satisfactory evidence that the applicant is destitute as defined in section 95 of the Immigration and Asylum Act 1999, or (ii) satisfactory evidence that there are particularly compelling reasons relating to the welfare of a child of a parent in receipt of a very low income.

Definitions

GEN.1.2. For the purposes of this Appendix "partner" means-

- (i) the applicant's spouse;
- (ii) the applicant's civil partner;
- (iii) the applicant's fiancé(e) or proposed civil partner; or
- (iv) a person who has been living together with the applicant in a relationship akin to a marriage or civil partnership for at least two years prior to the date of application,

unless a different meaning of partner applies elsewhere in this Appendix.

GEN.1.3. For the purposes of this Appendix

- (a) "application for leave to remain" also includes an application for variation of leave to enter or remain by a person in the UK;
- (b) references to a person being present and settled in the UK also include a person who is being admitted for settlement on the same occasion as the applicant; and
- (c) references to a British Citizen in the UK also include a British Citizen who is coming to the UK with the applicant as their partner or parent.

GEN.1.4. In this Appendix "specified" means specified in Appendix FM-SE, unless otherwise stated.

GEN.1.5. If the Entry Clearance Officer, or Secretary of State, has reasonable cause to doubt the genuineness of any document submitted in support of an application, and having taken reasonable

steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of the application.

GEN.1.6. For the purposes of paragraph E-ECP.4.1.(a); E-LTRP.4.1.(a); EECPT. 4.1(a) and E-LTRPT.5.1.(a) the applicant must be a national of Antigua and Barbuda; Australia; the Bahamas; Barbados; Belize; Canada; Dominica; Grenada; Guyana; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; or the United States of America.

GEN.1.7. In this Appendix references to paragraphs are to paragraphs of this Appendix unless the context otherwise requires.

GEN.1.8. Paragraphs 277-280, 289AA, 295AA and 296 of Part 8 of these Rules shall apply to this Appendix.

GEN.1.9. In this Appendix:

(a) the requirement to make a valid application will not apply when the Article 8 claim is raised:

(i) as part of an asylum claim, or as part of a further submission in person after an asylum claim has been refused;

(ii) where a migrant is in immigration detention. A migrant in immigration detention or their representative must submit any application or claim raising Article 8 to a prison officer, a prisoner custody officer, a detainee custody officer or a member of Home Office staff at the migrant's place of detention; or

(iii) in an appeal (subject to the consent of the Secretary of State where applicable); and

(b) where an application or claim raising Article 8 is made in any of the circumstances specified in paragraph GEN.1.9.(a), or is considered by the Secretary of State under paragraph A277C of these rules, the requirements of paragraphs R-LTRP.1.1.(c) and R-LTRPT.1.1.(c) are not met.

GEN.1.10. Where an applicant does not meet the requirements of this Appendix as a partner or parent but the decision-maker grants entry clearance or leave to enter or remain outside the rules on Article 8 grounds, the applicant will normally be granted entry clearance for a period not exceeding 33 months, or leave to enter or remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds unless the decision-maker considers that the person should not be subject to such a condition.

GEN.1.11. Where entry clearance or leave to enter or remain is granted under this Appendix, or where an applicant does not meet the requirements of this Appendix as a partner or parent but the decision-maker grants entry clearance or leave to enter or remain outside the rules on Article 8 grounds, (and without prejudice to the specific provision that is made in this Appendix in respect of a no recourse to public funds condition), that leave may be subject to such conditions as the decision-maker considers appropriate in a particular case.

GEN.1.12. In paragraphs GEN.1.10. and GEN.1.11. "decision-maker" refers to the Secretary of State or an Entry Clearance Officer.

GEN.1.13. For the purposes of paragraphs D-LTRP.1.1., D-LTRP.1.2., D-ILRP.1.2., D-LTRPT.1.1., D-LTRPT.1.2., and D-ILRPT.1.2. (excluding a grant of limited leave to remain as a fiancé(e) or proposed civil partner), where the applicant has extant leave at the date of application, the remaining period of that extant leave up to a maximum of 28 days will be added to the period of limited leave to remain granted under that paragraph (which may therefore exceed 30 months).

GEN.1.14. Where a person aged 18 or over is granted entry clearance or limited leave to enter or remain under this Appendix (or outside the rules on Article 8 grounds), or where a person granted such entry clearance or limited leave to enter or remain will be aged 18 before that period of entry clearance or limited leave expires, the entry clearance or leave will, in addition to any other conditions which may apply, be granted subject to the conditions in Part 15 of these rules.

Leave to enter

GEN.2.1. Subject to paragraph GEN.2.3., the requirements to be met by a person seeking leave to enter the UK under this route are that the person-

- (a) must have a valid entry clearance for entry under this route; and
- (b) must produce to the Immigration Officer on arrival a valid national passport or other document satisfactorily establishing their identity and nationality.

GEN.2.2. If a person does not meet the requirements of paragraph GEN.2.1. entry will be refused.

GEN.2.3.(1). Where an applicant for leave to enter the UK remains in the UK on temporary admission or temporary release and the requirements of sub-paragraph (2) are met, paragraph GEN.1.10., D-LTRP.1.2., D-LTRC.1.1. or D-LTRPT.1.2. (as appropriate) will apply, as if paragraph D-LTRP.1.2., D-LTRC.1.1. or D-LTRPT.1.2. (where relevant) provided for the granting of leave to enter not leave to remain (and except that the references to leave to remain and limited leave to remain are to be read as leave to enter).

(2). The requirements of this sub-paragraph are met where:

(a) the applicant satisfies the requirements in paragraph R-LTRP.1.1.(a), (b) and (d), paragraph R-LTRC.1.1.(a), (b) and (d) or paragraph R-LTRPT.1.1.(a), (b) and (d), as if those were requirements for leave to enter not leave to remain (and except that the references to leave to remain and indefinite leave to remain are to be read as leave to enter);

(b) a parent of the applicant has been granted leave to enter in accordance with this paragraph and the applicant satisfies the requirements in paragraph R-LTRC.1.1.(a), (b) and (d), as if those were requirements for leave to enter not leave to remain and as if paragraph R-LTRC.1.1.(d)(iii) referred to a parent of the applicant being or having been granted leave to enter in accordance with this paragraph (and except that the references to leave to remain are to be read as leave to enter); or

(c) the Secretary of State decides to grant leave outside the rules on Article 8 grounds.

Family life with a partner

Section EC-P: Entry clearance as a partner

EC-P.1.1. The requirements to be met for entry clearance as a partner are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability-entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECP: Eligibility for entry clearance as a partner.

Section S-EC: Suitability-entry clearance

S-EC.1.1. The applicant will be refused entry clearance on grounds of suitability if any of paragraphs S-EC.1.2. to 1.8. apply.

S-EC.1.2. The Secretary of State has personally directed that the exclusion of the applicant from the UK is conducive to the public good.

S-EC.1.3. The applicant is currently the subject of a deportation order.

S-EC.1.4. The exclusion of the applicant from the UK is conducive to the public good because they have:

- (a) been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years; or
- (b) been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence; or
- (c) been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 12 months, unless a period of 5 years has passed since the end of the sentence.

Where this paragraph applies, unless refusal would be contrary to the Human Rights

Convention or the Convention and Protocol Relating to the Status of Refugees, it will only be in exceptional circumstances that the public interest in maintaining refusal will be outweighed by compelling factors.

S-EC.1.5. The exclusion of the applicant from the UK is conducive to the public good because, for example, the applicant's conduct (including convictions which do not fall within paragraph SEC.1.4.), character, associations, or other reasons, make it undesirable to grant them entry clearance.

S-EC.1.6. The applicant has failed without reasonable excuse to comply with a requirement to-

- (a) attend an interview;
- (b) provide information;
- (c) provide physical data; or
- (d) undergo a medical examination or provide a medical report.

S-EC.1.7. It is undesirable to grant entry clearance to the applicant for medical reasons.

S-EC.1.8. The applicant left or was removed from the UK as a condition of a caution issued in accordance with section 22 of the Criminal Justice Act 2003 less than 5 years prior to the date on which the application is decided.

S-EC.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-EC.2.2. to 2.5. apply.

S-EC.2.2. Whether or not to the applicant's knowledge-

- (a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or
- (b) there has been a failure to disclose material facts in relation to the application.

S-EC.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-EC.2.4. A maintenance and accommodation undertaking has been requested or required under paragraph 35 of these Rules or otherwise and has not been provided.

S-EC.2.5. The exclusion of the applicant from the UK is conducive to the public good because:

- (a) within the 12 months prior to the date on which the application is decided, the person has been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record; or
- (b) in the view of the Secretary of State:

- (i) the person's offending has caused serious harm; or
- (ii) the person is a persistent offender who shows a particular disregard for the law.

Section E-ECP: Eligibility for entry clearance as a partner

E-ECP.1.1. To meet the eligibility requirements for entry clearance as a partner all of the requirements in paragraphs E-ECP.2.1. to 4.2. must be met.

Relationship requirements

E-ECP.2.1. The applicant's partner must be-

- (a) a British Citizen in the UK, subject to paragraph GEN.1.3.(c); or
- (b) present and settled in the UK, subject to paragraph GEN.1.3.(b); or (c) in the UK with refugee leave or with humanitarian protection.

E-ECP.2.2. The applicant must be aged 18 or over at the date of application.

E-ECP.2.3. The partner must be aged 18 or over at the date of application.

E-ECP.2.4. The applicant and their partner must not be within the prohibited degree of relationship.

E-ECP.2.5. The applicant and their partner must have met in person.

E-ECP.2.6. The relationship between the applicant and their partner must be genuine and subsisting.

E-ECP.2.7. If the applicant and partner are married or in a civil partnership it must be a valid marriage or civil partnership, as specified.

E-ECP.2.8. If the applicant is a fiancé(e) or proposed civil partner they must be seeking entry to the UK to enable their marriage or civil partnership to take place.

E-ECP.2.9. Any previous relationship of the applicant or their partner must have broken down permanently, unless it is a relationship which falls within paragraph 278(i) of these Rules.

E-ECP.2.10. The applicant and partner must intend to live together permanently in the UK.

Financial requirements

E-ECP.3.1. The applicant must provide specified evidence, from the sources listed in paragraph E-ECP.3.2., of-

(a) a specified gross annual income of at least-

- (i) £18,600;
- (ii) an additional £3,800 for the first child; and
- (iii) an additional £2,400 for each additional child; alone or in combination with

(b) specified savings of-

- (i) £16,000; and
- (ii) additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income from the sources listed in paragraph E-ECP.3.2.(a)-(d) and the total amount required under paragraph E-ECP.3.1.(a); or

(c) the requirements in paragraph E-ECP.3.3.being met.

In this paragraph "child" means a dependent child of the applicant who is-

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) applying for entry clearance as a dependant of the applicant, or has limited leave to enter or remain in the UK;
- (c) not a British Citizen or settled in the UK; and
- (d) not an EEA national with a right to be admitted under the Immigration (EEA) Regulations 2006.

E-ECP.3.2. When determining whether the financial requirement in paragraph EEC.P.

3.1. is met only the following sources will be taken into account-

- (a) income of the partner from specified employment or self-employment, which, in respect of a partner returning to the UK with the applicant, can include specified employment or self-employment overseas and in the UK;
- (b) specified pension income of the applicant and partner;
- (c) any specified maternity allowance or bereavement benefit received by the partner in the UK or any specified payment relating to service in HM Forces received by the applicant or partner;
- (d) other specified income of the applicant and partner; and
- (e) specified savings of the applicant and partner.

E-ECP.3.3. The requirements to be met under this paragraph are-

- (a) the applicant's partner must be receiving one or more of the following -
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance;
 - (v) carer's allowance;
 - (vi) personal independence payment;
 - (vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
 - (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and
- (b) the applicant must provide evidence that their partner is able to maintain and accommodate themselves, the applicant and any dependants adequately in the UK without recourse to public funds.

E-ECP.3.4. The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-ECP.4.1. The applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.6.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;
- (c) have an academic qualification recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-ECP. 4.2.

E-ECP.4.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement prior to entry to the UK.

Section D-ECP: Decision on application for entry clearance as a partner

D-ECP.1.1. If the applicant meets the requirements for entry clearance as a partner the applicant will be granted entry clearance for an initial period not exceeding 33 months, and subject to a condition of no recourse to public funds; or, where the applicant is a fiancé(e) or proposed civil partner, the applicant will be granted entry clearance for a period not exceeding 6 months, and subject to a condition of no recourse to public funds and a prohibition on employment.

D-ECP.1.2. Where the applicant does not meet the requirements for entry clearance as a partner the application will be refused.

Section R-LTRP: Requirements for limited leave to remain as a partner

R-LTRP.1.1. The requirements to be met for limited leave to remain as a partner are-

- (a) the applicant and their partner must be in the UK;
- (b) the applicant must have made a valid application for limited or indefinite leave to remain as a partner; and either
- (c)
 - (i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and
 - (ii) the applicant meets all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner; or
- (d)
 - (i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and
 - (ii) the applicant meets the requirements of paragraphs E-LTRP.1.2-1.12. and E-LTRP.2.1.;
 - (iii) paragraph EX.1. applies.

Section S-LTR: Suitability-leave to remain

S-LTR.1.1. The applicant will be refused limited leave to remain on grounds of suitability if any of paragraphs S-LTR.1.2. to 1.7. apply.

S-LTR.1.2. The applicant is currently the subject of a deportation order.

S-LTR.1.3. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years.

S-LTR.1.4. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 4 years but at least 12 months.

S-LTR.1.5. The presence of the applicant in the UK is not conducive to the public good because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law.

S-LTR.1.6. The presence of the applicant in the UK is not conducive to the public good because their conduct (including convictions which do not fall within paragraphs S-LTR.1.3. to 1.5.), character, associations, or other reasons, make it undesirable to allow them to remain in the UK.

S-LTR.1.7. The applicant has failed without reasonable excuse to comply with a requirement to-

- (a) attend an interview;
- (b) provide information;
- (c) provide physical data; or
- (d) undergo a medical examination or provide a medical report.

S-LTR.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-LTR.2.2. to 2.4. apply.

S-LTR.2.2. Whether or not to the applicant's knowledge –

- (a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or
- (b) there has been a failure to disclose material facts in relation to the application.

S-LTR.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-LTR.2.4. A maintenance and accommodation undertaking has been requested under paragraph 35 of these Rules and has not been provided.

S-LTR.3.1. When considering whether the presence of the applicant in the UK is not conducive to the public good any legal or practical reasons why the applicant cannot presently be removed from the UK must be ignored.

Section E-LTRP: Eligibility for limited leave to remain as a partner

E-LTRP.1.1. To qualify for limited leave to remain as a partner all of the requirements of paragraphs E-LTRP.1.2. to 4.2. must be met.

Relationship requirements

E-LTRP.1.2. The applicant's partner must be-

- (a) a British Citizen in the UK;
- (b) present and settled in the UK; or
- (c) in the UK with refugee leave or as a person with humanitarian protection.

E-LTRP.1.3. The applicant must be aged 18 or over at the date of application.

E-LTRP.1.4. The partner must be aged 18 or over at the date of application.

E-LTRP.1.5. The applicant and their partner must not be within the prohibited degree of relationship.

E-LTRP.1.6. The applicant and their partner must have met in person.

E-LTRP.1.7. The relationship between the applicant and their partner must be genuine and subsisting.

E-LTRP.1.8. If the applicant and partner are married or in a civil partnership it must be a valid marriage or civil partnership, as specified.

E-LTRP.1.9. Any previous relationship of the applicant or their partner must have broken down permanently, unless it is a relationship which falls within paragraph 278(i) of these Rules.

E-LTRP.1.10. The applicant and their partner must intend to live together permanently in the UK and, in any application for further leave to remain as a partner (except where the applicant is in the UK as a fiancé(e) or proposed civil partner) and in any application for indefinite leave to remain as a partner, the applicant must provide evidence that, since entry clearance as a partner was granted under paragraph D-ECP1.1. or since the last grant of limited leave to remain as a partner, the applicant and their partner have lived together in the UK or there is good reason, consistent with a continuing intention to live together permanently in the UK, for any period in which they have not done so.

E-LTRP.1.11. If the applicant is in the UK with leave as a fiancé(e) or proposed civil partner and the marriage or civil partnership did not take place during that period of leave, there must be good reason why and evidence that it will take place within the next 6 months.

E-LTRP.1.12. The applicant's partner cannot be the applicant's fiancé(e) or proposed civil partner, unless the applicant was granted entry clearance as that person's fiancé(e) or proposed civil partner.

Immigration status requirements

E-LTRP.2.1. The applicant must not be in the UK-

- (a) as a visitor; or
- (b) with valid leave granted for a period of 6 months or less, unless that leave is as a fiancé(e) or proposed civil partner, or was granted pending the outcome of family court or divorce proceedings

E-LTRP.2.2. The applicant must not be in the UK –

- (a) on temporary admission or temporary release, unless paragraph EX.1. applies; or
- (b) in breach of immigration laws (disregarding any period of overstaying for a period of 28 days or less), unless paragraph EX.1. applies.

Financial requirements

E-LTRP.3.1. The applicant must provide specified evidence, from the sources listed in paragraph E-LTRP.3.2., of-

- (a) a specified gross annual income of at least-

- (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of-
- (i) £16,000; and
 - (ii) additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income from the sources listed in paragraph E-LTRP.3.2.(a)-(f) and the total amount required under paragraph E-LTRP.3.1.(a); or
- (c) the requirements in paragraph E-LTRP.3.3. being met, unless paragraph EX.1. applies.

In this paragraph "child" means a dependent child of the applicant who is-

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) applying for entry clearance or is in the UK as a dependant of the applicant;
- (c) not a British Citizen or settled in the UK; and
- (d) not an EEA national with a right to remain in the UK under the Immigration (EEA) Regulations 2006.

E-LTRP.3.2. When determining whether the financial requirement in paragraph ELTRP.

3.1. is met only the following sources may be taken into account-

- (a) income of the partner from specified employment or self-employment;
- (b) income of the applicant from specified employment or self-employment unless they are working illegally;
- (c) specified pension income of the applicant and partner;
- (d) any specified maternity allowance or bereavement benefit received by the applicant and partner in the UK or any specified payment relating to service in HM Forces received by the applicant or partner;
- (e) other specified income of the applicant and partner;
- (f) income from the sources at (b), (d) or (e) of a dependent child of the applicant under paragraph E-LTRP.3.1. who is aged 18 years or over; and
- (g) specified savings of the applicant, partner and a dependent child of the applicant under paragraph E-LTRP.3.1. who is aged 18 years or over.

E-LTRP.3.3. The requirements to meet this paragraph are-

- (a) the applicant's partner must be receiving one or more of the following -
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance;
 - (v) carer's allowance;
 - (vi) personal independence payment;

- (vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
- (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and.

(b) the applicant must provide evidence that their partner is able to maintain and accommodate themselves, the applicant and any dependants adequately in the UK without recourse to public funds.

E-LTRP.3.4. The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively, unless paragraph EX.1. applies: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-LTRP.4.1. If the applicant has not met the requirement in a previous application for leave as a partner or parent, the applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.6.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;
- (c) have an academic qualification recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-LTRP. 4.2; unless paragraph EX.1. applies.

E-LTRP.4.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement.

Section D-LTRP: Decision on application for limited leave to remain as a partner

D-LTRP.1.1. If the applicant meets the requirements in paragraph R-LTRP.1.1.(a) to (c) for limited leave to remain as a partner the applicant will be granted limited leave to remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds, and they will be eligible to apply for settlement after a continuous period of at least 60 months with such leave or in the UK with entry clearance as a partner under paragraph D-ECP1.1. (excluding in all cases any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner); or, if paragraph E-LTRP.1.11. applies, the applicant will be granted limited leave for a period not exceeding 6 months and subject to a condition of no recourse to public funds and a prohibition on employment.

D-LTRP.1.2. If the applicant meets the requirements in paragraph R-LTRP.1.1.(a), (b) and (d) for limited leave to remain as a partner they will be granted leave to remain for a period not exceeding 30 months and subject to a condition of no recourse to public funds unless the Secretary of State considers that the person should not be subject to such a condition, and they will be eligible to apply

for settlement after a continuous period of at least 120 months with such leave, with limited leave as a partner under paragraph D-LTRP.1.1., or in the UK with entry clearance as a partner under paragraph D-ECP1.1. (excluding in all cases any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner), or, if paragraph E-LTRP.1.11. applies, the applicant will be granted limited leave for a period not exceeding 6 months and subject to a condition of no recourse to public funds and a prohibition on employment.

D-LTRP.1.3. If the applicant does not meet the requirements for limited leave to remain as a partner the application will be refused.

Section R-ILRP: Requirements for indefinite leave to remain (settlement) as a partner

R-ILRP.1.1. The requirements to be met for indefinite leave to remain as a partner are that-

- (a) the applicant and their partner must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability-indefinite leave to remain;
- (d) the applicant:
 - (i) must meet all of the requirements of Section E-LTRP: Eligibility for leave to remain as a partner (but in applying paragraph E-LTRP. 3.1.(b)(ii) delete the words "2.5 times"); or
 - (ii) must meet the requirements of paragraphs E-LTRP.1.2.-1.12. and E-LTRP.2.1. and paragraph EX.1. applies; and
- (e) the applicant must meet all of the requirements of Section E-ILRP: Eligibility for indefinite leave to remain as a partner.

Section S-ILR: Suitability for indefinite leave to remain

S-ILR.1.1. The applicant will be refused indefinite leave to remain on grounds of suitability if any of paragraphs S-ILR.1.2. to 1.9. apply.

S-ILR.1.2. The applicant is currently the subject of a deportation order.

S-ILR.1.3. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years.

S-ILR.1.4. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 4 years but at least 12 months, unless a period of 15 years has passed since the end of the sentence.

S-ILR.1.5. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence.

S-ILR.1.6. The applicant has, within the 24 months prior to the date on which the application is decided, been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record.

S-ILR.1.7. The presence of the applicant in the UK is not conducive to the public good because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law.

S-ILR.1.8. The presence of the applicant in the UK is not conducive to the public good because their conduct (including convictions which do not fall within paragraphs S-ILR.1.3. to 1.6.), character, associations, or other reasons, make it undesirable to allow them to remain in the UK.

S-ILR.1.9. The applicant has failed without reasonable excuse to comply with a requirement to-

- (a) attend an interview;
- (b) provide information;
- (c) provide physical data; or
- (d) undergo a medical examination or provide a medical report.

S-ILR.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-ILR.2.2. to 2.4. apply.

S-ILR.2.2. Whether or not to the applicant's knowledge –

- (a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or
- (b) there has been a failure to disclose material facts in relation to the application.

S-ILR.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-ILR.2.4. A maintenance and accommodation undertaking has been requested under paragraph 35 of these Rules and has not been provided.

S-ILR.3.1. When considering whether the presence of the applicant in the UK is not conducive to the public good, any legal or practical reasons why the applicant cannot presently be removed from the UK must be ignored.

Section E-ILRP: Eligibility for indefinite leave to remain as a partner

E-ILRP.1.1. To meet the eligibility requirements for indefinite leave to remain as a partner all of the requirements of paragraphs E-ILRP.1.2. to 1.6. must be met.

E-ILRP.1.2. The applicant must be in the UK with valid leave to remain as a partner (disregarding any period of overstaying for a period of 28 days or less).

E-ILRP.1.3. The applicant must have completed a continuous period of at least 60 months with limited leave as a partner under paragraph R-LTRP.1.1.(a) to (c) or in the UK with entry clearance as a partner under paragraph D-ECP.1.1.; or a continuous period of at least 120 months with limited leave as a partner under paragraph R-LTR.P.1.1(a), (b) and (d) or in the UK with entry clearance as a partner under paragraph D-ECP.1.1.; or a continuous period of at least 120 months with limited leave as a partner under a combination of these paragraphs, excluding in all cases any period of entry clearance or limited leave as a fiancé(e) or proposed civil partner.

E-ILRP.1.4. In calculating the periods under paragraph E-ILRP.1.3. only the periods when the applicant's partner is the same person as the applicant's partner for the previous period of limited leave shall be taken into account.

E-ILRP.1.5. In calculating the periods under paragraph E-ILRP.1.3. the words "in the UK" in that paragraph shall not apply to any period(s) to which the evidence in paragraph 26A of Appendix FM-SE applies.

E-ILRP.1.6. The applicant must have demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom in accordance with the requirements of Appendix KoLL of these Rules.

Section D-ILRP: Decision on application for indefinite leave to remain as a partner

D-ILRP.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a partner the applicant will be granted indefinite leave to remain.

D-ILRP.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a partner only for one or both of the following reasons-

(a) paragraph S-ILR.1.5. or S-ILR.1.6. applies;

(b) the applicant has not demonstrated sufficient knowledge of the English language or about life in the United Kingdom in accordance with Appendix KoLL,

the applicant will be granted further limited leave to remain as a partner for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-ILRP.1.3. If the applicant does not meet all the eligibility requirements for indefinite leave to remain as a partner, and does not qualify for further limited leave to remain as a partner under paragraph DILRP. 1.2., the application will be refused, unless the applicant meets the requirements in paragraph R-LTRP.1.1.(a), (b) and (d) for limited leave to remain as a partner. Where they do, the applicant will be granted further limited leave to remain as a partner for a period not exceeding 30 months under paragraph D-LTRP.1.2. and subject to a condition of no recourse to public funds unless the Secretary of State considers that the person should not be subject to such a condition.

Section EX: Exceptions to certain eligibility requirements for leave to remain as a partner or parent

EX.1. This paragraph applies if

(a)

(i) the applicant has a genuine and subsisting parental relationship with a child who-

(aa) is under the age of 18 years, or was under the age of 18 years when the applicant was first granted leave on the basis that this paragraph applied;

(bb) is in the UK;

(cc) is a British Citizen or has lived in the UK continuously for at least the 7 years immediately preceding the date of application ;and

(ii) it would not be reasonable to expect the child to leave the UK; or

(b) the applicant has a genuine and subsisting relationship with a partner who is in the UK and is a British Citizen, settled in the UK or in the UK with refugee leave or humanitarian protection, and there are insurmountable obstacles to family life with that partner continuing outside the UK.

EX.2. For the purposes of paragraph EX.1.(b) “insurmountable obstacles” means the very significant difficulties which would be faced by the applicant or their partner in continuing their family life together outside the UK and which could not be overcome or would entail very serious hardship for the applicant or their partner.

Bereaved partner

Section BPILR: Indefinite leave to remain (settlement) as a bereaved partner

BPILR.1.1. The requirements to be met for indefinite leave to remain in the UK as a bereaved partner are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a bereaved partner;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability-indefinite leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-BPILR:

Eligibility for indefinite leave to remain as a bereaved partner.

Section E-BPILR: Eligibility for indefinite leave to remain as a bereaved partner

E-BPILR.1.1. To meet the eligibility requirements for indefinite leave to remain as a bereaved partner all of the requirements of paragraphs E-BPILR1.2. to 1.4. must be met. E-BPILR.1.2. The applicant's last grant of limited leave must have been as-

- (a) a partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or a person settled in the UK; or
- (b) a bereaved partner.

E-BPILR.1.3. The person who was the applicant's partner at the time of the last grant of limited leave as a partner must have died.

E-BPILR.1.4. At the time of the partner's death the relationship between the applicant and the partner must have been genuine and subsisting and each of the parties must have intended to live permanently with the other in the UK.

Section D-BPILR: Decision on application for indefinite leave to remain as a bereaved partner

D-BPILR.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a bereaved partner the applicant will be granted indefinite leave to remain.

D-BPILR.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a bereaved partner only because paragraph S-ILR.1.5. or S-ILR.1.6. applies, the applicant will be granted further limited leave to remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-BPILR.1.3. If the applicant does not meet the requirements for indefinite leave to remain as a bereaved partner, or limited leave to remain as a bereaved partner under paragraph DBPILR.1.2., the application will be refused.

Victim of domestic violence

Section DVILR: Indefinite leave to remain (settlement) as a victim of domestic violence

DVILR.1.1. The requirements to be met for indefinite leave to remain in the UK as a victim of domestic violence are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a victim of domestic violence;

(c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability-indefinite leave to remain; and

(d) the applicant must meet all of the requirements of Section E-DVILR:

Eligibility for indefinite leave to remain as a victim of domestic violence.

Section E-DVILR: Eligibility for indefinite leave to remain as a victim of domestic violence

E-DVILR.1.1. To meet the eligibility requirements for indefinite leave to remain as a victim of domestic violence all of the requirements of paragraphs E-DVILR.1.2. and 1.3. must be met.

E-DVILR.1.2. The applicant's first grant of limited leave under this Appendix must have been as a partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or a person settled in the UK under paragraph D- LTRP.1.1. or D-LTRP.1.2. of this Appendix and any subsequent grant of limited leave must have been:

(a) granted as a partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or a person settled in the UK under paragraph D-ECP.1.1., D- LTRP.1.1. or D-LTRP.1.2. of this Appendix; or

(b) granted to enable access to public funds pending an application under DVILR and the preceding grant of leave was granted as a partner (other than a fiancé(e) or proposed civil partner) of a British Citizen or a person settled in the UK under paragraph D-ECP.1.1., D-LTRP.1.1. or D-LTRP.1.2. of this Appendix; or

(c) granted under paragraph D-DVILR.1.2.

E-DVILR.1.3. The applicant must provide evidence that during the last period of limited leave as a partner of a British Citizen or a person settled in the UK under paragraph D-ECP.1.1., D-LTRP.1.1. or D-LTRP.1.2. of this Appendix the applicant's relationship with their partner broke down permanently as a result of domestic violence.

Section D-DVILR: Decision on application for indefinite leave to remain as a victim of domestic violence

D-DVILR.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a victim of domestic violence the applicant will be granted indefinite leave to remain.

D-DVILR.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a victim of domestic violence only because paragraph S-ILR.1.5. or S-ILR.1.6. applies, the applicant will be granted further limited leave to remain for a period not exceeding 30 months.

D-DVILR.1.3. If the applicant does not meet the requirements for indefinite leave to remain as a victim of domestic violence, or further limited leave to remain under paragraph D-DVILR.1.2. the application will be refused.

Family life as a child of a person with limited leave as a partner or parent

This route is for a child whose parent is applying for entry clearance or leave, or who has limited leave, as a partner or parent. For further provision on a child seeking to enter or remain in the UK for the purpose of their family life see Part 8 of these Rules.

Section EC-C: Entry clearance as a child

EC-C.1.1. The requirements to be met for entry clearance as a child are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a child;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability for entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECC: Eligibility for entry clearance as a child.

Section E-ECC: Eligibility for entry clearance as a child

E-ECC.1.1. To meet the eligibility requirements for entry clearance as a child all of the requirements of paragraphs E-ECC.1.2. to 2.4. must be met.

Relationship requirements

E-ECC.1.2. The applicant must be under the age of 18 at the date of application.

E-ECC.1.3. The applicant must not be married or in a civil partnership.

E-ECC.1.4. The applicant must not have formed an independent family unit.

E-ECC.1.5. The applicant must not be leading an independent life.

E-ECC.1.6. One of the applicant's parents must be in the UK with limited leave to enter or remain, or be applying, or have applied, for entry clearance, as a partner or a parent under this Appendix (referred to in this section as the "applicant's parent"), and

- (a) the applicant's parent's partner under Appendix FM is also a parent of the applicant; or
- (b) the applicant's parent has had and continues to have sole responsibility for the child's upbringing; or
- (c) 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.

Financial requirement

E-ECC.2.1. Where a parent of the applicant has, or is applying or has applied for, entry clearance or limited leave to enter or remain as a partner under this Appendix, the applicant must provide specified evidence, from the sources listed in paragraph E-ECC.2.2., of -

- (a) a specified gross annual income of at least-
 - (i) £18,600;
 - (ii) an additional £3,800 for the first child; and
 - (iii) an additional £2,400 for each additional child; alone or in combination with
- (b) specified savings of
 - (i) £16,000; and
 - (ii) additional savings of an amount equivalent to 2.5 times the amount which is the difference between the gross annual income from the sources listed in paragraph E-ECC.2.2.(a)-(f) and the total amount required under paragraph E- ECC.2.1.(a); or

(c) the requirements in paragraph E-ECC.2.3. being met.

In this paragraph "child" means the applicant and any other dependent child of the applicant's parent who is -

- (a) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (b) in the UK;
- (c) not a British Citizen or settled in the UK; and
- (d) not an EEA national with a right to remain in the UK under the Immigration (EEA) Regulations 2006.

E-ECC.2.2. When determining whether the financial requirement in paragraph E-ECC. 2.1. is met only the following sources may be taken into account-

- (a) income of the applicant's parent's partner from specified employment or self employment, which, in respect of an applicant's parent's partner returning to the UK with the applicant, can include specified employment or self-employment overseas and in the UK;
- (b) income of the applicant's parent from specified employment or self employment if they are in the UK unless they are working illegally;
- (c) specified pension income of the applicant's parent and that parent's partner;
- (d) any specified maternity allowance or bereavement benefit received by the applicant's parent and that parent's partner in the UK or any specified payment relating to service in HM Forces received by the applicant's parent and that parent's partner;
- (e) other specified income of the applicant's parent and that parent's partner;
- (f) income from the sources at (b), (d) or (e) of a dependent child of the applicant's parent under paragraph E-ECC.2.1. who is aged 18 years or over; and
- (g) specified savings of the applicant's parent, that parent's partner and a dependent child of the applicant's parent under paragraph E-ECC.2.1. who is aged 18 years or over.

E-ECC.2.3. The requirements to be met under this paragraph are-

- (a) the applicant's parent's partner must be receiving one or more of the following-
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance;
 - (v) carer's allowance;
 - (vi) personal independence payment;
 - (vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
 - (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and
- (b) the applicant must provide evidence that their parent's partner is able to maintain and accommodate themselves, the applicant's parent, the applicant and any dependants adequately in the UK without recourse to public funds.

E-ECC.2.3A. Where a parent of the applicant has, or is applying or has applied for, entry clearance or limited leave to enter or remain as a parent under this Appendix, the applicant must provide evidence

that that parent is able to maintain and accommodate themselves, the applicant and any other dependants adequately in the UK without recourse to public funds.

E-ECC.2.4. The applicant must provide evidence that there will be adequate accommodation, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

Section D-ECC: Decision on application for entry clearance as a child D-ECC.1.1. If the applicant meets the requirements for entry clearance as a child they will be granted entry clearance of a duration which will expire at the same time as the leave granted to the applicant's parent, and subject to a condition of no recourse to public funds.

D-ECC.1.2. If the applicant does not meet the requirements for entry clearance as a child the application will be refused.

Section R-LTRC: Requirements for leave to remain as a child

R-LTRC.1.1. The requirements to be met for leave to remain as a child are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for leave to remain as a child; and either
- (c)
 - (i) the applicant must not fall for refusal under any of the grounds in Section S LTR: Suitability-leave to remain; and
 - (ii) the applicant meets all of the requirements of Section E-LTRC: Eligibility for leave to remain as a child; or
- (d)
 - (i) the applicant must not fall for refusal under any of the grounds in Section S- LTR: Suitability-leave to remain; and
 - (ii) the applicant meets the requirements of paragraphs E-LTRC.1.2.-1.6.; and
 - (iii) a parent of the applicant has been or is at the same time being granted leave to remain under paragraph D-LTRP.1.2. or D-LTRPT.1.2. or indefinite leave to remain under this Appendix (except as an adult dependent relative).

Section E-LTRC: Eligibility for leave to remain as a child

E-LTRC.1.1. To qualify for limited leave to remain as a child all of the requirements of paragraphs E-LTRC.1.2. to 2.4. must be met (except where paragraph R-LTRC.1.1.(d)(ii) applies).

Relationship requirements

E-LTRC.1.2. The applicant must be under the age of 18 at the date of application or when first granted leave as a child under this route.

E-LTRC.1.3. The applicant must not be married or in a civil partnership.

E-LTRC.1.4. The applicant must not have formed an independent family unit.

E-LTRC.1.5. The applicant must not be leading an independent life.

E-LTRC.1.6. One of the applicant's parents (referred to in this section as the "applicant's parent") must be in the UK and have leave to enter or remain or indefinite leave to remain, or is at the same time being granted leave to remain or indefinite leave to remain, under this

Appendix (except as an adult dependent relative), and

- (a) the applicant's parent's partner under Appendix FM is also a parent of the applicant; or
- (b) the applicant's parent has had and continues to have sole responsibility for the child's upbringing or the applicant normally lives with this parent and not their other parent; or
- (c) 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.

Financial requirements

E-LTRC.2.1. Where a parent of the applicant has, or is applying or has applied for, limited leave to remain as a partner under this Appendix, the applicant must provide specified evidence, from the sources listed in paragraph E-LTRC.2.2., of -

(a) a specified gross annual income of at least-

- (i) £18,600;
- (ii) an additional £3,800 for the first child; and
- (iii) an additional £2,400 for each additional child; alone or in combination with

(b) specified savings of-

- (i) £16,000; and
- (ii) additional savings of an amount equivalent to 2.5 times (or if the parent is applying for indefinite leave to remain 1 times) the amount which is the difference between the gross annual income from the sources listed in paragraph E-LTRC.2.2.(a)-(f) and the total amount required under paragraph E-LTRC.2.1.(a); or

(c) the requirements in paragraph E-LTRC.2.3. being met.

In this paragraph "child" means the applicant and any other dependent child of the applicant's parent who is-

- (i) under the age of 18 years, or who was under the age of 18 years when they were first granted entry under this route;
- (ii) in the UK;
- (iii) not a British Citizen or settled in the UK; and
- (iv) not an EEA national with a right to remain in the UK under the Immigration (EEA) Regulations 2006.

E-LTRC.2.2. When determining whether the financial requirement in paragraph ELTRC. 2.1. is met only the following sources may be taken into account-

- (a) income of the applicant's parent's partner from specified employment or selfemployment;
- (b) income of the applicant's parent from specified employment or self employment;
- (c) specified pension income of the applicant's parent and that parent's partner;

- (d) any specified maternity allowance or bereavement benefit received by the applicant's parent and that parent's partner in the UK or any specified payment relating to service in HM Forces received by the applicant's parent and that parent's partner;
- (e) other specified income of the applicant's parent and that parent's partner;
- (f) income from the sources at (b), (d) or (e) of a dependent child of the applicant's parent under paragraph E-LTRC.2.1. who is aged 18 years or over; and
- (g) specified savings of the applicant's parent, that parent's partner and a dependent child of the applicant's parent under paragraph E-ECC.2.1. who is aged 18 years or over.

E-LTRC.2.3. The requirements to be met under this paragraph are-

- (a) the applicant's parent's partner must be receiving one or more of the following -
 - (i) disability living allowance;
 - (ii) severe disablement allowance;
 - (iii) industrial injury disablement benefit;
 - (iv) attendance allowance;
 - (v) carer's allowance;
 - (vi) personal independence payment;
 - (vii) Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme; or
 - (viii) Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme; and
- (b) the applicant must provide evidence that their parent's partner is able to maintain and accommodate themselves, the applicant's parent, the applicant and any dependants adequately in the UK without recourse to public funds.

E-LTRC.2.3A. Where a parent of the applicant has, or is applying or has applied for, limited leave to remain as a parent under this Appendix, the applicant must provide evidence that that parent is able to maintain and accommodate themselves, the applicant and any other dependants adequately in the UK without recourse to public funds.

E-LTRC.2.4. The applicant must provide evidence that there will be adequate accommodation in the UK, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

Section D-LTRC: Decision on application for leave to remain as a child

D-LTRC.1.1. If the applicant meets the requirements for leave to remain as a child the applicant will be granted leave to remain of a duration which will expire at the same time as the leave granted to the applicant's parent, and subject to a condition of no recourse to public funds. To qualify for indefinite leave to remain as a child of a person with indefinite leave to remain as a partner or parent, the applicant must meet the requirements of paragraph 298 of these rules.

D-LTRC.1.2. If the applicant does not meet the requirements for leave to remain as a child the application will be refused.

Family life as a parent of a child in the UK

Section EC-PT: Entry clearance as a parent of a child in the UK

EC-PT.1.1. The requirements to be met for entry clearance as a parent are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as a parent;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability—entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECPT: Eligibility for entry clearance as a parent.

Section E-ECPT: Eligibility for entry clearance as a parent

E-ECPT.1.1. To meet the eligibility requirements for entry clearance as a parent all of the requirements in paragraphs E-ECPT.2.1. to 4.2. must be met.

Relationship requirements

E-ECPT.2.1. The applicant must be aged 18 years or over.

E-ECPT.2.2. The child of the applicant must be-

- (a) under the age of 18 years at the date of application;
- (b) living in the UK; and
- (c) a British Citizen or settled in the UK. E-ECPT.2.3. Either -
 - (a) the applicant must have sole parental responsibility for the child; or
 - (b) the parent or carer with whom the child normally lives must be-
 - (i) a British Citizen in the UK or settled in the UK;
 - (ii) not the partner of the applicant; and
 - (iii) the applicant must not be eligible to apply for entry clearance as a partner under this Appendix.

E-ECPT.2.4.

- (a) The applicant must provide evidence that they have either-
 - (i) sole parental responsibility for the child; or
 - (ii) access rights to the child; and
- (b) The applicant must provide evidence that they are taking, and intend to continue to take, an active role in the child's upbringing.

Financial requirements

E-ECPT.3.1. The applicant must provide evidence that they will be able to adequately maintain and accommodate themselves and any dependants in the UK without recourse to public funds

E-ECPT.3.2. The applicant must provide evidence that there will be adequate accommodation in the UK, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-ECPT.4.1. The applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.6.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;
- (c) have an academic qualification recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-ECPT. 4.2.

E-ECPT.4.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement prior to entry to the UK.

Section D-ECPT: Decision on application for entry clearance as a parent

D-ECPT.1.1. If the applicant meets the requirements for entry clearance as a parent they will be granted entry clearance for an initial period not exceeding 33 months, and subject to a condition of no recourse to public funds.

D-ECPT.1.2. If the applicant does not meet the requirements for entry clearance as a parent the application will be refused.

Section R-LTRPT: Requirements for limited leave to remain as a parent

R-LTRPT.1.1. The requirements to be met for limited leave to remain as a parent are-

- (a) the applicant and the child must be in the UK;
- (b) the applicant must have made a valid application for limited or indefinite leave to remain as a parent or partner; and either
- (c)
 - (i) the applicant must not fall for refusal under Section S-LTR: Suitability leave to remain; and
 - (ii) the applicant meets all of the requirements of Section ELTRPT: Eligibility for leave to remain as a parent, or
- (d)
 - (i) the applicant must not fall for refusal under S-LTR: Suitability leave to remain; and
 - (ii) the applicant meets the requirements of paragraphs E-LTRPT.2.2-2.4. and E-LTRPT.3.1.; and
 - (iii) paragraph EX.1. applies.

Section E-LTRPT: Eligibility for limited leave to remain as a parent

E-LTRPT.1.1. To qualify for limited leave to remain as a parent all of the requirements of paragraphs E-LTRPT.2.2. to 5.2. must be met.

Relationship requirements

E-LTRPT.2.2. The child of the applicant must be-

- (a) under the age of 18 years at the date of application, or where the child has turned 18 years of age since the applicant was first granted entry clearance or leave to remain as a parent under this Appendix, must not have formed an independent family unit or be leading an independent life;
- (b) living in the UK; and
- (c) a British Citizen or settled in the UK; or
- (d) has lived in the UK continuously for at least the 7 years immediately preceding the date of application and paragraph EX.1. applies.

E-LTRPT.2.3. Either-

- (a) the applicant must have sole parental responsibility for the child or the child normally lives with the applicant and not their other parent (who is a British Citizen or settled in the UK); or
- (b) the parent or carer with whom the child normally lives must be-
 - (i) a British Citizen in the UK or settled in the UK;
 - (ii) not the partner of the applicant (which here includes a person who has been in a relationship with the applicant for less than two years prior to the date of application); and
 - (iii) the applicant must not be eligible to apply for leave to remain as a partner under this Appendix.

E-LTRPT.2.4.

- (a) The applicant must provide evidence that they have either-
 - (i) sole parental responsibility for the child, or that the child normally lives with them; or
 - (ii) access rights to the child; and
- (b) The applicant must provide evidence that they are taking, and intend to continue to take, an active role in the child's upbringing.

Immigration status requirement

E-LTRPT.3.1. The applicant must not be in the UK-

- (a) as a visitor; or
- (b) with valid leave granted for a period of 6 months or less, unless that leave was granted pending the outcome of family court or divorce proceedings;

E-LTRPT.3.2. The applicant must not be in the UK –

- (a) on temporary admission or temporary release, unless paragraph EX.1. applies; or

(b) in breach of immigration laws (disregarding any period of overstaying for a period of 28 days or less), unless paragraph EX.1. applies.”.

Financial requirements

E-LTRPT.4.1. The applicant must provide evidence that they will be able to adequately maintain and accommodate themselves and any dependants in the UK without recourse to public funds, unless paragraph EX.1. applies.

E-LTRPT.4.2. The applicant must provide evidence that there will be adequate accommodation in the UK, without recourse to public funds, for the family, including other family members who are not included in the application but who live in the same household, which the family own or occupy exclusively, unless paragraph EX.1. applies: accommodation will not be regarded as adequate if-

- (a) it is, or will be, overcrowded; or
- (b) it contravenes public health regulations.

English language requirement

E-LTRPT.5.1. If the applicant has not met the requirement in a previous application for leave as a parent or partner, the applicant must provide specified evidence that they-

- (a) are a national of a majority English speaking country listed in paragraph GEN.1.6.;
- (b) have passed an English language test in speaking and listening at a minimum of level A1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State;
- (c) have an academic qualification recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK, which was taught in English; or
- (d) are exempt from the English language requirement under paragraph E-LTRPT. 5.2, unless paragraph EX.1. applies.

E-LTRPT.5.2. The applicant is exempt from the English language requirement if at the date of application-

- (a) the applicant is aged 65 or over;
- (b) the applicant has a disability (physical or mental condition) which prevents the applicant from meeting the requirement; or
- (c) there are exceptional circumstances which prevent the applicant from being able to meet the requirement.

Section D-LTRPT: Decision on application for limited leave to remain as a parent

D-LTRPT.1.1. If the applicant meets the requirements in paragraph R-LTRPT.1.1. (a) to (c) for limited leave to remain as a parent the applicant will be granted limited leave to remain for a period not exceeding 30 months, and subject to a condition of no recourse to public funds, and they will be eligible to apply for settlement after a continuous period of at least 60 months with such leave or in the UK with entry clearance as a parent under paragraph D-ECPT.1.1.

D-LTRPT.1.2. If the applicant meets the requirements in paragraph R-LTRPT.1.1. (a), (b) and (d) for limited leave to remain as a parent they will be granted leave to remain for a period not exceeding 30 months and subject to a condition of no recourse to public funds unless the Secretary of State considers that the person should not be subject to such a condition, and they will be eligible to apply for settlement after a continuous period of at least 120 months with such leave, with limited leave as a parent under paragraph D-LTRPT.1.1., or in the UK with entry clearance as a parent under paragraph D-ECPT.1.1.

D-LTRPT.1.3. If the applicant does not meet the requirements for limited leave to remain as a parent the application will be refused.

Section R-ILRPT: Requirements for indefinite leave to remain (settlement) as a parent

R-ILRPT.1.1. The requirements to be met for indefinite leave to remain as a parent are that-

- (a) the applicant must be in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as a parent;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability-indefinite leave to remain;
- (d) the applicant must meet all of the requirements of Section E-LTRPT:

Eligibility for leave to remain as a parent; and

- (e) the applicant must meet all of the requirements of Section E-ILRPT: Eligibility for indefinite leave to remain as a parent.

Section E-ILRPT: Eligibility for indefinite leave to remain as a parent

E-ILRPT.1.1. To meet the eligibility requirements for indefinite leave to remain as a parent all of the requirements of paragraphs E-ILRPT.1.2. to 1.5. must be met.

E-ILRPT.1.2. The applicant must be in the UK with valid leave to remain as a parent (disregarding any period of overstaying for 28 days or less).

E-ILRPT.1.3. The applicant must have completed a continuous period of at least 60 months with limited leave as a parent under paragraph R-LTRPT.1.1.(a) to (c) or in the UK with entry clearance as a parent under paragraph D-ECPT.1.1.; or a continuous period of at least 120 months with limited leave as a parent, under paragraphs R-LTRPT.1.1(a), (b) and (d) or in the UK with entry clearance as a parent under paragraph D-ECPT.1.1.; or a continuous period of at least 120 months with limited leave as a parent under a combination of these paragraphs.

E-ILRPT.1.4. DELETED.

E-ILRPT.1.5. The applicant must have demonstrated sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom in accordance with the requirements of Appendix KoLL of these Rules.

Section D-ILRPT: Decision on application for indefinite leave to remain as a parent

D-ILRPT.1.1. If the applicant meets all of the requirements for indefinite leave to remain as a parent the applicant will be granted indefinite leave to remain.

D-ILRPT.1.2. If the applicant does not meet the requirements for indefinite leave to remain as a parent only for one or both of the following reasons- (a) paragraph S-ILR.1.5. or S-ILR.1.6. applies; or

(b) the applicant has not demonstrated sufficient knowledge of the English language or about life in the United Kingdom in accordance with Appendix KoLL, the applicant will be granted further limited leave to remain as a parent for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-ILRPT.1.3. If the applicant does not meet all the eligibility requirements for indefinite leave to remain as a parent, and does not qualify for further limited leave to remain under paragraph DILRPT.1.2., the application will be refused, unless the applicant meets the requirements in paragraph R-LTRPT.1.1.(a), (b) and (d) for limited leave to remain as a parent. Where they do, the

applicant will be granted further limited leave to remain as a parent for a period not exceeding 30 months under paragraph D-LTRPT.1.2. and subject to a condition of no recourse to public funds unless the Secretary of State considers that the person should not be subject to such a condition.

Adult dependent relative

Section EC-DR: Entry clearance as an adult dependent relative

EC-DR.1.1. The requirements to be met for entry clearance as an adult dependent relative are that-

- (a) the applicant must be outside the UK;
- (b) the applicant must have made a valid application for entry clearance as an adult dependent relative;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-EC: Suitability for entry clearance; and
- (d) the applicant must meet all of the requirements of Section E-ECDR: Eligibility for entry clearance as an adult dependent relative.

Section E-ECDR: Eligibility for entry clearance as an adult dependent relative

E-ECDR.1.1. To meet the eligibility requirements for entry clearance as an adult dependent relative all of the requirements in paragraphs E-ECDR.2.1. to 3.2. must be met.

Relationship requirements

E-ECDR.2.1. The applicant must be the-

- (a) parent aged 18 years or over;
- (b) grandparent;
- (c) brother or sister aged 18 years or over; or
- (d) son or daughter aged 18 years or over of a person ("the sponsor") who is in the UK.

E-ECDR.2.2. If the applicant is the sponsor's parent or grandparent they must not be in a subsisting relationship with a partner unless that partner is also the sponsor's parent or grandparent and is applying for entry clearance at the same time as the applicant. E-ECDR.2.3. The sponsor must at the date of application be-

- (a) aged 18 years or over; and
- (b)
 - (i) a British Citizen in the UK; or
 - (ii) present and settled in the UK; or
 - (iii) in the UK with refugee leave or humanitarian protection.

E-ECDR.2.4. The applicant or, if the applicant and their partner are the sponsor's parents or grandparents, the applicant's partner, must as a result of age, illness or disability require longterm personal care to perform everyday tasks.

E-ECDR.2.5. The applicant or, if the applicant and their partner are the sponsor's parents or grandparents, the applicant's partner, must be unable, even with the practical and financial help of the sponsor, to obtain the required level of care in the country where they are living, because-

- (a) it is not available and there is no person in that country who can reasonably provide it; or
- (b) it is not affordable.

Financial requirements

E-ECDR.3.1. The applicant must provide evidence that they can be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds.

E-ECDR.3.2. If the applicant's sponsor is a British Citizen or settled in the UK, the applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period of 5 years from the date the applicant enters the UK if they are granted indefinite leave to enter.

Section D-ECDR: Decision on application for entry clearance as an adult dependent relative

D-ECDR.1.1. If the applicant meets the requirements for entry clearance as an adult dependent relative of a British Citizen or person settled in the UK they will be granted indefinite leave to enter.

D-ECDR.1.2. If the applicant meets the requirements for entry clearance as an adult dependent relative and the sponsor has limited leave the applicant will be granted limited leave of a duration which will expire at the same time as the sponsor's limited leave, and subject to a condition of no recourse to public funds. If the sponsor applies for further limited leave, the applicant may apply for further limited leave of the same duration, if the requirements in ECDR.1.1. (c) and (d) continue to be met, and subject to no recourse to public funds.

D-ECDR.1.3. If the applicant does not meet the requirements for entry clearance as an adult dependent relative the application will be refused.

Section R-ILRDR: Requirements for indefinite leave to remain as an adult dependent relative

R-ILRDR.1.1. The requirements to be met for indefinite leave to remain as an adult dependent relative are that-

- (a) the applicant is in the UK;
- (b) the applicant must have made a valid application for indefinite leave to remain as an adult dependent relative;
- (c) the applicant must not fall for refusal under any of the grounds in Section S-ILR: Suitability-indefinite leave to remain; and
- (d) the applicant must meet all of the requirements of Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative.

Section E-ILRDR: Eligibility for indefinite leave to remain as an adult dependent relative

E-ILRDR.1.1. To qualify for indefinite leave to remain as an adult dependent relative all of the requirements of paragraphs E-ILRDR.1.2. to 1.5. must be met.

E-ILRDR.1.2. The applicant must be in the UK with valid leave to remain as an adult dependent relative (disregarding any period of overstaying for a period of 28 days or less). E-ILRDR.1.3. The applicant's sponsor must at the date of application be

- (a) present and settled in the UK; or
- (b) in the UK with refugee leave or as a person with humanitarian protection and have made an application for indefinite leave to remain.

E-ILRDR.1.4. The applicant must provide evidence that they can be adequately maintained, accommodated and cared for in the UK by the sponsor without recourse to public funds.

E-ILRDR.1.5. The applicant must provide an undertaking signed by the sponsor confirming that the applicant will have no recourse to public funds, and that the sponsor will be responsible for their maintenance, accommodation and care, for a period ending 5 years from the date the applicant entered the UK with limited leave as an adult dependent relative.

Section D-ILRDR: Decision on application for indefinite leave to remain as an adult dependent relative

D-ILRDR.1.1. If the applicant meets the requirements for indefinite leave to remain as an adult dependent relative and the applicant's sponsor is settled in the UK, the applicant will be granted indefinite leave to remain as an adult dependent relative.

D-ILRDR.1.2. If the applicant does not meet the requirements for indefinite leave to remain as an adult dependent relative because paragraph S-ILR.1.5. or S-ILR.1.6. applies, the applicant will be granted further limited leave to remain as an adult dependent relative for a period not exceeding 30 months, and subject to a condition of no recourse to public funds.

D-ILRDR.1.3. If the applicant's sponsor has made an application for indefinite leave to remain and that application is refused, the applicant's application for indefinite leave to remain will be refused. If the sponsor is granted limited leave, the applicant will be granted further limited leave as an adult dependent relative of a duration which will expire at the same time as the sponsor's further limited leave, and subject to a condition of no recourse to public funds.

D-ILRDR.1.4. Where an applicant does not meet the requirements for indefinite leave to remain, or further limited leave to remain under paragraphs D-ILRDR.1.2. or 1.3., the application will be refused.

Deportation and removal

Where the Secretary of State or an immigration officer is considering deportation or removal of a person who claims that their deportation or removal from the UK would be a breach of the right to respect for private and family life under Article 8 of the Human Rights Convention that person may be required to make an application under this Appendix or paragraph 276ADE(1), but if they are not required to make an application Part 13 of these Rules will apply.

Appendix FM-SE

Family Members - Specified Evidence

A. This Appendix sets out the specified evidence applicants need to provide to meet the requirements of rules contained in Appendix FM and, where those requirements are also contained in other rules, including Appendix Armed Forces, and unless otherwise stated, the specified evidence applicants need to provide to meet the requirements of those rules.

B. Where evidence is not specified by Appendix FM, but is of a type covered by this Appendix, the requirements of this Appendix shall apply.

C. In this Appendix references to paragraphs are to paragraphs of this Appendix unless the context otherwise requires.

D. (a) In deciding an application in relation to which this Appendix states that specified documents must be provided, the Entry Clearance Officer or Secretary of State ("the decision maker") will consider documents that have been submitted with the application, and will only consider documents submitted after the application where sub-paragraph (b) or (e) applies.

(b) If the applicant:

(i) Has submitted:

- (aa) A sequence of documents and some of the documents in the sequence have been omitted (e.g. if one bank statement from a series is missing);
 - (bb) A document in the wrong format (for example, if a letter is not on letterhead paper as specified); or
 - (cc) A document that is a copy and not an original document; or
 - (dd) A document which does not contain all of the specified information; or
- (ii) Has not submitted a specified document, the decision-maker may contact the applicant or his representative in writing or otherwise, and request the document(s) or the correct version(s). The material requested must be received at the address specified in the request within a reasonable timescale specified in the request.
- (c) The decision-maker will not request documents where he or she does not anticipate that addressing the error or omission referred to in sub-paragraph (b) will lead to a grant because the application will be refused for other reasons.
- (d) If the applicant has submitted:
- (i) A document in the wrong format; or
 - (ii) A document that is a copy and not an original document, or
 - (iii) A document that does not contain all of the specified information, but the missing information is verifiable from:
 - (1) other documents submitted with the application,
 - (2) the website of the organisation which issued the document, or
 - (3) the website of the appropriate regulatory body,

the application may be granted exceptionally, providing the decision-maker is satisfied that the document(s) is genuine and that the applicant meets the requirement to which the document relates. The decision-maker reserves the right to request the specified original document(s) in the correct format in all cases where sub-paragraph (b) applies, and to refuse applications if this material is not provided as set out in sub-paragraph (b).

- (e) Where the decision-maker is satisfied that there is a valid reason why a specified document(s) cannot be supplied, e.g. because it is not issued in a particular country or has been permanently lost, he or she may exercise discretion not to apply the requirement for the document(s) or to request alternative or additional information or document(s) be submitted by the applicant.
- (f) Before making a decision under Appendix FM or this Appendix, the decision-maker may contact the applicant or their representative in writing or otherwise to request further information or documents. The material requested must be received at the address specified in the request within a reasonable timescale specified in the request.

Evidence of Financial Requirements under Appendix FM

A1. To meet the financial requirement under paragraphs E-ECP.3.1., E-LTRP.3.1., E-ECC.2.1. and E-LTRC.2.1. of Appendix FM, the applicant must meet:

- (a) The level of financial requirement applicable to the application under Appendix FM; and
- (b) The requirements specified in Appendix FM and this Appendix as to:
 - (i) The permitted sources of income and savings;
 - (ii) The time periods and permitted combinations of sources applicable to each permitted source relied upon; and

(iii) The evidence required for each permitted source relied upon.

1. In relation to evidencing the financial requirements in Appendix FM the following general provisions shall apply:

(a) Bank statements must:

(i) be from a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating.

(ii) not be from a financial institution on the list of excluded institutions in Appendix P of these rules.

(iii) in relation to personal bank statements be only in the name of:

(1) the applicant's partner, the applicant or both as appropriate; or

(2) if the applicant is a child the applicant parent's partner, the applicant's parent or both as appropriate; or

(3) if the applicant is an adult dependent relative, the applicant's sponsor or the applicant, unless otherwise stated.

(iv) cover the period(s) specified.

(v) be:

(1) on official bank stationery; or

(2) electronic bank statements which are either accompanied by a letter from the bank on its headed stationery confirming that the documents are authentic or which bear the official stamp of the issuing bank on every page.

(aa) Where a bank statement is specified in this Appendix, a building society statement, a building society pass book, a letter from the applicant's bank or building society, or a letter from a financial institution regulated by the Financial Conduct Authority and the Prudential Regulation Authority or, for overseas accounts, the appropriate regulatory body for the country in which the institution operates and the funds are located, may be submitted as an alternative to a bank statement(s) provided that:

(1) the requirements in paragraph 1(a)(i)-(iv) are met as if the document were a bank statement; and

(2) a building society pass book must clearly show:

(i) the account number;

(ii) the building society's name and logo; and

(iii) the information required on transactions, funds held and time period(s) or as otherwise specified in this Appendix in relation to bank statements; and/or

(3) a letter must be on the headed stationery of the bank, building society or other financial institution and must clearly show:

(i) the account number,

(ii) the date of the letter;

(iii) the financial institution's name and logo; and

(iv) the information required on transactions, funds held and time period(s) or as otherwise specified in this Appendix in relation to bank statements.

(b) Promises of third party support will not be accepted. Third party support will only be accepted in the form of:

- (i) payments from a former partner of the applicant for the maintenance of the applicant or any children of the applicant and the former partner, and payments from a former partner of the applicant's partner for the maintenance of that partner;
- (ii) income from a dependent child who has turned 18, remains in the same UK household as the applicant and continues to be counted towards the financial requirement under Appendix FM;
- (iii) gift of cash savings (whose source must be declared) evidenced at paragraph 1(a)(iii), provided that the cash savings have been held by the person or persons at paragraph 1(a)(iii) for at least 6 months prior to the date of application and are under their control; and
- (iv) a maintenance grant or stipend associated with undergraduate study or postgraduate study or research.

(bb) Payslips must be:

- (i) original formal payslips issued by the employer and showing the employer's name; or
 - (ii) accompanied by a letter from the employer, on the employer's headed paper and signed by a senior official, confirming the payslips are authentic;
- (c) The employment or self-employment income of an applicant will only be taken into account if they are in the UK, aged 18 years or over and working legally, and prospective employment income will not be taken into account (except that of an applicant's partner or parent's partner who is returning to employment or self-employment in the UK at paragraphs EEC.P.3.2.(a) and E-ECC.2.2.(a) of Appendix FM).
- (cc) The income of an applicant or sponsor working in the UK in salaried or non-salaried employment or in self-employment can include income from work undertaken overseas, provided paragraph E-LTRP.1.10 of Appendix FM and the other requirements of this Appendix are met.
- (d) All income and savings must be lawfully derived.
- (e) Savings must be held in cash.
- (f) Income or cash savings in a foreign currency will be converted to pounds sterling using the closing spot exchange rate which appears on www.oanda.com* on the date of application.
- (g) Where there is income or cash savings in different foreign currencies, each will be converted into pounds sterling before being added together, and then added to any UK income or savings to give a total amount.
- (h) All documentary evidence must be original, unless otherwise stated.
- (i) Evidence of profit from the sale of a business, property, investment, bond, stocks, shares or other asset will:
- (i) not be accepted as evidence of income, but
 - (ii) the associated funds will be accepted as cash savings subject to the requirements of this Appendix and Appendix FM.
- (j) Where any specified documents provided are not in English or Welsh, the applicant must provide the original and a full translation that can be independently verified by the Entry Clearance Officer, Immigration Officer or the Secretary of State. The translation must be dated and include:
- (i) confirmation that it is an accurate translation of the original document;
 - (ii) the full name and original signature of the translator or an authorised official of the translation company;
 - (iii) the translator or translation company's contact details; and

- (iv) if the applicant is applying for leave to remain or indefinite leave to remain, certification by a qualified translator and details of the translator or translation company's credentials.
- (k) Where the gross (pre-tax) amount of any income cannot be properly evidenced, the net (post-tax) amount will be counted, including towards a gross income requirement.
- (l) Where this Appendix requires the applicant to provide specified evidence relating to a period which ends with the date of application, that evidence, or the most recently dated part of it, must be dated no earlier than 28 days before the date of application.
- (m) Cash income on which the correct tax has been paid may be counted as income under this Appendix, subject to the relevant evidential requirements of this Appendix.
- (n) The gross amount of any cash income may be counted where the person's specified bank statements show the net amount which relates to the gross amount shown on their payslips (or in the relevant specified evidence provided in addition to the specified bank statements in relation to non-employment income). Otherwise, only the net amount shown on the specified bank statements may be counted.
- (o) In this Appendix, a reference to the "average" is a reference to the mean average.

2. In respect of salaried employment in the UK (except where paragraph 9 applies), all of the following evidence must be provided:

- (a) Payslips covering:
 - (i) a period of 6 months prior to the date of application if the person has been employed by their current employer for at least 6 months (and where paragraph 13(b) of this Appendix does not apply); or
 - (ii) any period of salaried employment in the period of 12 months prior to the date of application if the person has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a) of this Appendix), or in the financial year(s) relied upon by a self-employed person.
- (b) A letter from the employer(s) who issued the payslips at paragraph 2(a) confirming:
 - (i) the person's employment and gross annual salary;
 - (ii) the length of their employment;
 - (iii) the period over which they have been or were paid the level of salary relied upon in the application; and
 - (iv) the type of employment (permanent, fixed-term contract or agency).
- (c) Personal bank statements corresponding to the same period(s) as the payslips at paragraph 2(a), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.
- (d) Where the person is a director of a limited company based in the UK, evidence that the company is not of a type specified in paragraph 9(a). This can include the latest Annual Return filed at Companies House.

2A. (i) In respect of salaried employment in the UK (paragraph 2 of this Appendix), statutory or contractual maternity, paternity, adoption or sick pay in the UK (paragraph 5 or 6 of this Appendix), or a director's salary paid to a self-employed person (paragraph 9 of this Appendix), the applicant may, in addition to the payslips and personal bank statements required under that paragraph, submit the P60 for the relevant period(s) of employment relied upon (if issued). If they do not, the Entry Clearance Officer or Secretary of State may grant the application if otherwise satisfied that the requirements of this Appendix relating to that employment are met. The Entry Clearance Officer or Secretary of State may request that the applicant submit the document(s) in accordance with paragraph D of this Appendix.

(ii) In respect of salaried employment in the UK (paragraph 2 of this Appendix), or statutory or contractual maternity, paternity, adoption or sick pay in the UK (paragraph 5 or 6 of this Appendix),

the applicant may, in addition to the letter from the employer(s) required under that paragraph, submit a signed contract of employment. If they do not, the Entry Clearance Officer or Secretary of State may grant the application if otherwise satisfied that the requirements of this Appendix relating to that employment are met. The Entry Clearance Officer or Secretary of State may request that the applicant submit the document(s) in accordance with paragraph D of this Appendix.

3. In respect of salaried employment outside of the UK, evidence should be a reasonable equivalent to that set out in paragraph 2 and (where relevant) paragraph 2A. In respect of an equity partner whose income from the partnership is treated as salaried employment under paragraph 17, the payslips and employer's letter referred to in paragraph 2 may be replaced by other evidence providing the relevant information in paragraph 2 (which may include, but is not confined to, a letter on official stationery from an accountant, solicitor or business manager acting for the partnership).
4. In respect of a job offer in the UK (for an applicant's partner or parent's partner returning to salaried employment in the UK at paragraphs E-ECP.3.2.(a) and E-ECC.2.2.(a) of Appendix FM) a letter from the employer must be provided:
 - (a) confirming the job offer, the gross annual salary and the starting date of the employment which must be within 3 months of the applicant's partner's return to the UK; or
 - (b) enclosing a signed contract of employment, which must have a starting date within 3 months of the applicant's partner's return to the UK.
5. In respect of statutory or contractual maternity, paternity or adoption pay all of the following, and in respect of parental leave in the UK only the evidence at paragraph 5(c), must be provided:
 - (a) Personal bank statements corresponding to the same period(s) as the payslips at paragraph 5(b), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.
 - (b) Payslips covering:
 - (i) a period of 6 months prior to the date of application or to the commencement of the maternity, paternity or adoption leave, if the applicant has been employed by their current employer for at least 6 months (and where paragraph 13(b) does not apply); or
 - (ii) any period of salaried employment in the period of 12 months prior to the date of application or to the commencement of the maternity, paternity or adoption leave, if the applicant has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a)).
 - (c) A letter from the employer confirming:
 - (i) the length of the person's employment;
 - (ii) the gross annual salary and the period over which it has been paid at this level;
 - (iii) the entitlement to maternity, paternity, parental or adoption leave; and (iv) the date of commencement and the end-date of the maternity, paternity, parental or adoption leave.
6. In respect of statutory or contractual sick pay in the UK all of the following must be provided:
 - (a) Personal bank statements corresponding to the same period(s) as the payslips at paragraph 6(b), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.
 - (b) Payslips covering:
 - (i) a period of 6 months prior to the date of application or to the commencement of the sick leave, if the applicant has been employed by their current employer for at least 6 months (and where paragraph 13(b) does not apply); or,
 - (ii) any period of salaried employment in the period of 12 months prior to the date of application or to the commencement of the sick leave, if the applicant has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a)).

- (c) A letter from employer confirming:
 - (i) the length of the person's employment;
 - (ii) the gross annual salary and the period over which it has been paid at this level;
 - (iii) that the person is in receipt of statutory or contractual sick pay; and (iv) the date of commencement of the sick leave.
7. In respect of self-employment in the UK as a partner, as a sole trader or in a franchise all of the following must be provided:
- (a) Evidence of the amount of tax payable, paid and unpaid for the last full financial year.
 - (b) The following documents for the last full financial year, or for the last two such years (where those documents show the necessary level of gross income as an average of those two years):
 - (i) annual self-assessment tax return to HMRC (a copy or print-out); and
 - (ii) Statement of Account (SA300 or SA302).
 - (c) Proof of registration with HMRC as self-employed if available.
 - (d) Each partner's Unique Tax Reference Number (UTR) and/or the UTR of the partnership or business.
 - (e) Where the person holds or held a separate business bank account(s), bank statements for the same 12-month period as the tax return(s).
 - (f) personal bank statements for the same 12-month period as the tax return(s) showing that the income from self-employment has been paid into an account in the name of the person or in the name of the person and their partner jointly.
 - (g) Evidence of ongoing self-employment through evidence of payment of Class 2 National Insurance contributions, or (where the person has reached state pension age) through alternative evidence (which may include, but is not confined to, evidence of ongoing payment of business rates, business-related insurance premiums, employer National Insurance contributions or franchise payments to the parent company).
 - (h) One of the following documents must also be submitted:
 - (i) (aa) If the business is required to produce annual audited accounts, such accounts for the last full financial year; or
 - (bb) If the business is not required to produce annual audited accounts, unaudited accounts for the last full financial year and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognised Supervisory Body (as defined in the Companies Act 2006);
 - (ii) A certificate of VAT registration and the VAT return for the last full financial year (a copy or print-out) confirming the VAT registration number, if turnover is in excess of £79,000 or was in excess of the threshold which applied during the last full financial year;
 - (iii) Evidence to show appropriate planning permission or local planning authority consent is held to operate the type/class of business at the trading address (where this is a local authority requirement); or
 - (iv) A franchise agreement signed by both parties.
- (i) The document referred to in paragraph 7(h)(iv) must be provided if the organisation is a franchise.
8. In respect of self-employment outside of the UK, evidence should be a reasonable equivalent to that set out in paragraph 7.
9. In respect of income from employment and/or shares in a limited company based in the UK of a type specified in paragraph 9(a), the requirements of paragraph 9(b)-(d) shall apply in place of the requirements of paragraphs 2 and 10(b).

- (a) The specified type of limited company is one in which:
- (i) the person is a director of the company (or another company within the same group); and
 - (ii) shares are held (directly or indirectly) by the person, their partner or the following family members of the person or their partner: parent, grandparent, child, stepchild, grandchild, brother, sister, uncle, aunt, nephew, niece or first cousin; and
 - (iii) any remaining shares are held (directly or indirectly) by fewer than five other persons.
- (b) All of the following must be provided:
- (i) Company Tax Return CT600 (a copy or print-out) for the last full financial year and evidence this has been filed with HMRC, such as electronic or written acknowledgment from HMRC.
 - (ii) Evidence of registration with the Registrar of Companies at Companies House.
 - (iii) If the company is required to produce annual audited accounts, such accounts for the last full financial year.
 - (iv) If the company is not required to produce annual audited accounts, unaudited accounts for the last full financial year and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognized Supervisory Body (as defined in the Companies Act 2006).
 - (v) Corporate/business bank statements covering the same 12-month period as the Company Tax Return CT600.
 - (vi) A current Appointment Report from Companies House.
 - (vii) One of the following documents must also be provided:
 - (1) A certificate of VAT registration and the VAT return for the last full financial year (a copy or print-out) confirming the VAT registration number, if turnover is in excess of £79,000 or was in excess of the threshold which applied during the last full financial year.
 - (2) Proof of ownership or lease of business premises.
 - (3) Original proof of registration with HMRC as an employer for the purposes of PAYE and National Insurance, proof of PAYE reference number and Accounts Office reference number. This evidence may be in the form of a certified copy of the documentation issued by HMRC.
- (c) Where the person is listed as a director of the company and receives a salary from the company, all of the following documents must also be provided:
- (i) Payslips and P60 (if issued) covering the same period as the Company Tax Return CT600.
 - (ii) Personal bank statements covering the same 12-month period as the Company Tax Return CT600 showing that the salary as a director was paid into an account in the name of the person or in the name of the person and their partner jointly.
- (d) Where the person receives dividends from the company, all of the following documents must also be provided:
- (i) Dividend vouchers for all dividends declared in favour of the person during or in respect of the period covered by the Company Tax Return CT600 showing the company's and the person's details with the person's net dividend amount and tax credit.
 - (ii) Personal bank statement(s) showing that those dividends were paid into an account in the name of the person or in the name of the person and their partner jointly.

10. In respect of non-employment income all the following evidence, in relation to the form of income relied upon, must be provided:

- (a) To evidence property rental income:
 - (i) Confirmation that the person or the person and their partner jointly own the property for which the rental income is received, through:
 - (1) A copy of the title deeds of the property or of the title register from the Land Registry (or overseas equivalent); or
 - (2) A mortgage statement.
 - (ii) personal bank statements for the 12-month period prior to the date of application showing the income relied on was paid into an account in the name of the person or of the person and their partner jointly. (iii) A rental agreement or contract.
- (b) To evidence dividends (except where paragraph 9 applies) or other income from investments, stocks, shares, bonds or trust funds:
 - (i) A certificate showing proof of ownership and the amount(s) of any investment(s).
 - (ii) A portfolio report (for a financial institution regulated by the Financial Conduct Authority (and the Prudential Regulation Authority where applicable) in the UK) or a dividend voucher showing the company and person's details with the person's net dividend amount and tax credit.
 - (iii) personal bank statements for the 12-month period prior to the date of application showing that the income relied upon was paid into an account in the name of the person or of the person and their partner jointly.
 - (iv) Where the person is a director of a limited company based in the UK, evidence that the company is not of a type specified in paragraph 9(a). This can include the latest Annual Return filed at Companies House.
- (c) To evidence interest from savings:
 - (i) personal bank statements for the 12-month period prior to the date of application showing the amount of the savings held and that the interest was paid into an account in the name of the person or of the person and their partner jointly.
- (d) To evidence maintenance payments (from a former partner of the applicant to maintain their and the applicant's child or children or the applicant, or from a former partner of the applicant's partner to maintain the applicant's partner):
 - (i) Evidence of a maintenance agreement through any of the following:
 - (1) A court order;
 - (2) Written voluntary agreement; or
 - (3) Child Support Agency documentation.
 - (ii) personal bank statements for the 12-month period prior to the date of application showing the income relied upon was paid into an account in the name of the person or the person and their partner jointly.
- (e) To evidence a pension:
 - (i) Official documentation from:
 - (1) The Department for Work and Pensions (in respect of the Basic State Pension and the Additional or Second State Pension) or other government department or agency, including the Veterans Agency;
 - (2) An overseas pension authority; or (3) A pension company, confirming pension entitlement and amount.
 - (ii) At least one personal bank statement in the 12-month period prior to the date of application showing payment of the pension into the person's account.
 - (iii) For the purposes of sub-paragraph (i), War Disablement Pension, War Widow's/Widower's Pension and any other pension or equivalent payment for life

made under the War Pensions Scheme, the Armed Forces Compensation Scheme or the Armed Forces Attributable Benefits Scheme may be treated as a pension, unless excluded under paragraph 21 of this Appendix.

- (f) To evidence UK Maternity Allowance, Bereavement Allowance, Bereavement Payment and Widowed Parent's Allowance:
 - (i) Department for Work and Pensions documentation confirming the person or their partner is or was in receipt of the benefit in the 12-month period prior to the date of application.
 - (ii) personal bank statements for the 12-month period prior to the date of application showing the income was paid into the person's account.
- (ff) Subject to paragraph 12, to evidence payments under the War Pensions Scheme, the Armed Forces Compensation Scheme or the Armed Forces Attributable Benefits Scheme which are not treated as a pension for the purposes of paragraph 10(e)(i):
 - (i) Veterans Agency or Department for Work and Pensions documentation in the form of an award notification letter confirming the person or their partner is or was in receipt of the payment at the date of application.
 - (ii) personal bank statements for the 12-month period prior to the date of application showing the income was paid into the person's account."
- (g) To evidence a maintenance grant or stipend (not a loan) associated with undergraduate study or postgraduate study or research:
 - (i) Documentation from the body or company awarding the grant or stipend confirming that the person is currently in receipt of the grant or stipend or will be within 3 months of the date of application, confirming that the grant or stipend will be paid for a period of at least 12 months or for at least one full academic year from the date of application or from the date on which payment of the grant or stipend will commence, and confirming the annual amount of the grant or stipend. Where the grant or stipend is or will be paid on a tax-free basis, the amount of the gross equivalent may be counted as income under this Appendix.
 - (ii) personal bank statements for any part of the 12-month period prior to the date of the application during which the person has been in receipt of the grant or stipend showing the income was paid into the person's account.
- (h) To evidence ongoing insurance payments (such as, but not exclusively, payments received under an income protection policy):
 - (i) documentation from the insurance company confirming:
 - (a) that in the 12 months prior to the date of application the person has been in receipt of insurance payments and the amount and frequency of the payments.
 - (b) the reason for the payments and their expected duration.
 - (c) that, provided any relevant terms and conditions continue to be met, the payment(s) will continue for at least the 12 months following the date of application.
 - (ii) personal bank statements for the 12-month period prior to the date of application showing the insurance payments were paid into the person's account.
- (i) To evidence ongoing payments (other than maintenance payments under paragraph 10(d)) arising from a structured legal settlement (such as, but not exclusively, one arising from settlement of a personal injury claim):
 - (i) documentation from a court or the person's legal representative confirming:

(a) that in the 12 months prior to the date of application the person has been in receipt of structured legal settlement payments and the amount and frequency of those payments.

(b) the reason for the payments and their expected duration.

(c) that the payment(s) will continue for at least the 12 months following the date of application.

(ii) personal bank statements for the 12-month period prior to the date of application showing the payments were paid into the person's account, either directly or via the person's legal representative.

11. In respect of cash savings the following must be provided:

(a) personal bank statements showing that at least the level of cash savings relied upon in the application has been held in an account(s) in the name of the person or of the person and their partner jointly throughout the period of 6 months prior to the date of application.

(b) A declaration by the account holder(s) of the source(s) of the cash savings.

11A. In respect of cash savings:

(a) The savings may be held in any form of bank/savings account (whether a deposit or investment account), provided that the account allows the savings to be accessed immediately (with or without a penalty for withdrawing funds without notice). This can include savings held in a pension savings account which can be immediately withdrawn.

(b) Paid out competition winnings or a legacy which has been paid can contribute to cash savings.

(c) Funds held as cash savings by the applicant, their partner or both jointly at the date of application can have been transferred from investments, stocks, shares, bonds or trust funds within the period of 6 months prior to the date of application, provided that:

(i) The funds have been in the ownership and under the control of the applicant, their partner or both jointly for at least the period of 6 months prior to the date of application.

(ii) The ownership of the funds in the form of investments, stocks, shares, bonds or trust funds; the cash value of the funds in that form at or before the beginning of the period of 6 months prior to the date of application; and the transfer of the funds into cash, are evidenced by a portfolio report or other relevant documentation from a financial institution regulated by the appropriate regulatory body for the country in which that institution is operating.

(iii) The requirements of this Appendix in respect of the cash savings held at the date of application are met, except that the period of 6 months prior to the date of application in paragraph 11(a) will be reduced by the amount of that period in which the relevant funds were held in the form of investments, stocks, shares, bonds or trust funds.

(iv) For the purposes of sub-paragraph 11A(c), "investments" includes funds held in an investment account which does not meet the requirements of paragraphs 11 and 11A(a).

(d) Funds held as cash savings by the applicant, their partner or both jointly at the date of application can be from the proceeds of the sale of property, in the form only of a dwelling, other building or land, which took place within the period of 6 months prior to the date of application, provided that:

(i) The property (or relevant share of the property) was owned at the beginning of the period of 6 months prior to the date of application and at the date of sale by the applicant, their partner or both jointly.

(ii) Where ownership of the property was shared with a third party, only the proceeds of the sale of the share of the property owned by the applicant, their partner or both jointly may be counted.

(iii) The funds deposited as cash savings are the net proceeds of the sale, once any mortgage or loan secured on the property (or relevant share of the property) has been repaid and once any taxes and professional fees associated with the sale have been paid.

(iv) The decision-maker is satisfied that the requirements in sub-paragraphs (i)-(iii) are met on the basis of information and documents submitted in support of the application. These may include for example:

(1) Registration information or documentation (or a copy of this) from the Land Registry (or overseas equivalent).

(2) A letter from a solicitor (or other relevant professional, if the sale takes place overseas) instructed in the sale of the property confirming the sale price and other relevant information.

(3) A letter from a lender (a bank or building society) on its headed stationery regarding the repayment of a mortgage or loan secured on the property.

(4) Confirmation of payment of taxes or professional fees associated with the sale.

(5) Any other relevant evidence that the requirements in subparagraphs (i)-(iii) are met.

(v) The requirements of this Appendix in respect of the cash savings held at the date of application are met, except that the period of 6 months mentioned in paragraph 11(a) will be reduced by the amount of time which passed between the start of that 6-month period and the deposit of the proceeds of the sale in an account mentioned in paragraph 11(a).

12. Where a person is in receipt of Carer's Allowance, Disability Living Allowance, Severe Disablement Allowance, Industrial Injuries Disablement Benefit, Attendance Allowance or Personal Independence Payment or Armed Forces Independence Payment or Guaranteed Income Payment under the Armed Forces Compensation Scheme or Constant Attendance Allowance, Mobility Supplement or War Disablement Pension under the War Pensions Scheme, all the following must be provided:

(a) Official documentation from the Department for Work and Pensions or Veterans Agency confirming the current entitlement and the amount currently received.

(b) At least one personal bank statement in the 12-month period prior to the date of application showing "payment of the amount of the benefit or allowance to which the person is currently entitled into their account.

12A. Where the financial requirement the applicant must meet under Appendix FM relates to adequate maintenance, paragraphs 2 to 12 apply only to the extent and in the manner specified by this paragraph. Where such a financial requirement applies, the applicant must provide the following evidence:

(a) Where the current salaried employment in the UK of the applicant or their partner, parent, parent's partner or sponsor is relied upon:

(i) A letter from the employer confirming the employment, the gross annual salary and the annual salary after income tax and National Insurance contributions

have been paid, how long the employment has been held, and the type of employment (permanent, fixed-term contract or agency).

(ii) Payslips covering the period of 6 months prior to the date of application or such shorter period as the current employment has been held.

(iii) personal bank statement covering the same period as the payslips, showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.

(b) Where statutory or contractual maternity, paternity, adoption or sick pay in the UK of the applicant or their partner, parent, parent's partner or sponsor are relied upon, paragraph 5(b)(i) and (c) or paragraph 6(b)(i) and (c) apply as appropriate.

(c) Where self-employment in the UK of the applicant or their partner, parent, parent's partner or sponsor, or income from employment and/or shares in a limited company based in the UK of a type to which paragraph 9 applies, is relied upon, paragraph 7 or 9 applies as appropriate.

(d) Where the non-employment income of the applicant or their partner, parent, parent's partner or sponsor is relied upon, paragraph 10 applies and paragraph 10 shall apply as if it referred to any UK welfare benefit or tax credit relied upon and to HMRC as well as Department for Work and Pensions or other official documentation.

(e) Where the cash savings of the applicant or their partner, parent, parent's partner or sponsor are relied upon, paragraphs 11 and 11A apply.

(f) The monthly housing and Council Tax costs for the accommodation in the UK in which the applicant (and any other family members who are or will be part of the same household) lives or will live if the application is granted.

(g) Where the applicant is an adult dependent relative applying for entry clearance, the applicant must in addition provide details of the care arrangements in the UK planned for them by their sponsor (which can involve other family members in the UK), of the cost of these arrangements and of how that cost will be met by the sponsor.

12B. Where the financial requirement an applicant must meet under Part 8 (excluding an applicant who is a family member of a Relevant Points Based System Migrant) or under Appendix FM relates to adequate maintenance and where cash savings are relied upon to meet the requirement in full or in part, the decision-maker will:

(a) Establish the total cash savings which meet the requirements of paragraphs 11 and 11A;

(b) Divide this figure by the number of weeks of limited leave which would be issued if the application were granted, or by 52 if the application is for indefinite leave to enter or remain;

(c) Add the figure in sub-paragraph 12B(b) to the weekly net income (before the deduction of housing costs) available to meet the requirement

Calculating Gross Annual Income under Appendix FM

13. Based on evidence that meets the requirements of this Appendix, and can be taken into account with reference to the applicable provisions of Appendix FM, gross annual income under paragraphs E-ECP.3.1., E-LTRP.3.1., E-ECC.2.1. and E-LTRC.2.1. will be calculated in the following ways:

(a) Where the person is in salaried employment in the UK at the date of application, has been employed by their current employer for at least 6 months and has been paid throughout the period of 6 months prior to the date of application at a level of gross annual salary which equals or exceeds the level relied upon in paragraph 13(a)(i), their gross annual income will be (where paragraph 13(b) does not apply) the total of:

(i) The level of gross annual salary relied upon in the application;

- (ii) The gross amount of any specified non-employment income (other than pension income) received by them or their partner in the 12 months prior to the date of application; and
- (iii) The gross annual income from a UK or foreign State pension or a private pension received by them or their partner.

(b) Where the person is in salaried employment in the UK at the date of application and has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a)), their gross annual income will be the total of:

- (i) The gross annual salary from employment as it was at the date of application;
- (ii) The gross amount of any specified non-employment income (other than pension income) received by them or their partner in the 12 months prior to the date of application; and
- (iii) The gross annual income from a UK or foreign State pension or a private pension received by them or their partner.

In addition, the requirements of paragraph 15 must be met.

(c) Where the person is the applicant's partner, is in salaried employment outside of the UK at the date of application, has been employed by their current employer for at least 6 months, and is returning to the UK to take up salaried employment in the UK starting within 3 months of their return, the person's gross annual income will be calculated:

- (i) On the basis set out in paragraph 13(a); and also
- (ii) On that basis but substituting for the gross annual salary at paragraph 13(a)(i) the gross annual salary in the salaried employment in the UK to which they are returning.

(d) Where the person is the applicant's partner, has been in salaried employment outside of the UK within 12 months of the date of application, and is returning to the UK to take up salaried employment in the UK starting within 3 months of their return, the person's gross annual income will be calculated:

- (i) On the basis set out in paragraph 13(a) but substituting for the gross annual salary at paragraph 13(a)(i) the gross annual salary in the salaried employment in the UK to which they are returning; and also
- (ii) On the basis set out in paragraph 15(b).

(e) Where the person is self-employed, their gross annual income will be the total of their gross income from their self-employment, from any salaried or non-salaried employment they have had or their partner has had (if their partner is in the UK with permission to work), from specified non-employment income received by them or their partner, and from income from a UK or foreign State pension or a private pension received by them or their partner, in the last full financial year or as an average of the last two full financial years. The requirements of this Appendix for specified evidence relating to these forms of income shall apply as if references to the date of application were references to the end of the relevant financial year(s). The relevant financial year(s) cannot be combined with any financial year(s) to which paragraph 9 applies and vice versa.

(f) Where the person is self-employed, they cannot combine their gross annual income at paragraph 13(e) with specified savings in order to meet the level of income required under Appendix FM.

(g) Where the person is not relying on income from salaried employment or self employment, their gross annual income will be the total of:

- (i) The gross amount of any specified non-employment income (other than pension income) received by them or their partner in the 12 months prior to the date of application; and
- (ii) The gross annual income from a UK or foreign State pension or a private pension received by them or their partner.

(h) Where the person is the applicant's partner and is in self-employment outside the UK at the date of application and is returning to the UK to take up salaried employment in the UK starting within 3 months of their return, the person's gross annual income will be calculated:

(i) On the basis set out in paragraph 13(a) but substituting for the gross annual salary at paragraph 13(a)(i) the gross annual salary in the salaried employment in the UK to which they are returning; and also (ii) On the basis set out in paragraph 13(e).

(i) Any period of unpaid maternity, paternity, adoption, parental or sick leave in the 12 months prior to the date of application will not be counted towards any period relating to employment, or any period relating to income from employment, for which this Appendix provides.

(j) The provisions of paragraph 13 which apply to self-employment and to a person who is self-employed also apply to income from employment and/or shares in a limited company based in the UK of a type to which paragraph 9 applies and to a person in receipt of such income.

(k) Where the application relies on the employment income of the applicant and the sponsor, all of that income must be calculated either under sub-paragraph 13(a) or under sub-paragraph 13(b) and paragraph 15, and not under a combination of these methods.

14. Where the requirements of this Appendix and Appendix FM are met by the combined income or cash savings of more than one person, the income or the cash savings must only be counted once unless stated otherwise.

15. In respect of paragraph 13(b) and paragraph 13(d), the provisions in this paragraph also apply:

(a) In order to evidence the level of gross annual income required by Appendix FM, the person must meet the requirements in paragraph 13(b) or paragraph 13(d)(i); and (b) The person must also meet the level of gross annual income required by Appendix FM on the basis that their income is the total of:

(i) The gross income from salaried employment in the UK or overseas earned by the person in the 12 months prior to the date of application;

(ii) The gross amount of any specified non-employment income (other than pension income) received by the person or their partner in the 12 months prior to the date of application;

(iii) The gross amount received from a UK or foreign State pension or a private pension by the person or their partner in the 12 months prior to the date of application; and

(iv) The person cannot combine the gross annual income at paragraph 15(b)(i)-(iii) with specified savings in order to meet the level of income required.

16. Where a person is in receipt of maternity, paternity, adoption or sick pay or has been so in the 6 months prior to the date of application, this paragraph applies:

(a) the relevant date for considering the length of employment with their current employer will be the date that the maternity, paternity, adoption or sick leave commenced or the date of application; and

(b) the relevant period for calculating income from their salaried employment will be the period prior to the commencement of the maternity, paternity, adoption or sick pay or to the date of application.

17. If a person is an equity partner, for example in a law firm, the income they draw from the partnership will be treated as salaried employment for the purposes of this Appendix and Appendix FM.

17A. Where a person is a subcontractor under the Construction Industry Scheme administered by HMRC and does not rely on paragraph 13(e), the income they receive as a subcontractor under the Construction Industry Scheme may be treated as income from salaried employment for the purposes of this Appendix and Appendix FM. In that case, the requirements for specified evidence in paragraph

2 must be met, subject to applying those requirements so as to reflect the person's status as a subcontractor under the Construction Industry Scheme.

18. When calculating income from salaried employment under paragraphs 12A and 13 to 16, this paragraph applies:

(a) Basic pay, skills-based allowances, and UK location-based allowances will be counted as income provided that:

- (i) They are contractual; and
- (ii) Where these allowances make up more than 30% of the total salary, only the amount up to 30% is counted.

(b) Overtime, commission-based pay and bonuses (which can include tips and gratuities paid via a tronc scheme registered with HMRC) will be counted as income, where they have been received in the relevant period(s) of employment or self-employment relied upon in the application.

(bb) In respect of a person in salaried employment at the date of application, the amount of income in sub-paragraph (b) which may be added to their gross annual salary, and counted as part of that figure for the purposes of paragraph 13(a)(i) or 13(b)(i), is the annual equivalent of the person's average gross monthly income from that income in their current employment in the 6 months prior to the date of application.

(c) UK and overseas travel, subsistence and accommodation allowances, and allowances relating to the cost of living overseas will not be counted as income. (d) Gross income from non-salaried employment will be calculated on the same basis as income from salaried employment, except as provided in paragraph 18(e) and 18(f), and the requirements of this Appendix for specified evidence relating to salaried employment shall apply as if references to salary were references to income from non-salaried employment. Non-salaried employment includes that paid at an hourly or other rate (and the number and/or pattern of hours required to be worked may vary), or paid an amount which varies according to the work undertaken, whereas salaried employment includes that paid at a minimum fixed rate (usually annual) and is subject usually to a contractual minimum number of hours to be worked.

(e) For the purpose of paragraph 13(a)(i), in respect of a person in non-salaried employment at the date of application "the level of gross annual salary relied upon in the application" shall be no greater than the annual equivalent of the person's average gross monthly income from non-salaried employment in the 6 months prior to the date of application, where that employment was held throughout that period.

(f) For the purpose of paragraph 13(b)(i), "the gross annual salary from employment as it was at the date of application" of a person in non-salaried employment at the date of application shall be considered to be the annual equivalent of the person's average gross monthly income from non-salaried employment in the 6 months prior to the date of application, regardless of whether that employment was held throughout that period.

(g) For the purpose of paragraphs 13(c)(ii) and 13(d)(i), "the gross annual salary in the salaried employment in the UK to which they are returning" of a person who is returning to the UK to take up non-salaried employment in the UK starting within 3 months of their return is the gross annual income from that employment, based on the rate or amount of pay, and the standard or core hours of work, set out in the document(s) from the employer provided under paragraph 4. Notwithstanding paragraph 18(b), this may include the gross "on-target" earnings which may be expected from satisfactory performance in the standard or core hours of work.

19. When calculating income from self-employment under paragraphs 12A and 13(e), and in relation to income from employment and/or shares in a limited company based in the UK of a type to which paragraph 9 applies, this paragraph applies:

(a) There must be evidence of ongoing self-employment, and (where income from salaried employment is also relied upon or where paragraph 9(c) applies) ongoing employment, at the date of application.

- (b) Where the self-employed person is a sole trader or is in a partnership or franchise agreement, the income will be:
 - (i) the gross taxable profits from their share of the business; and
 - (ii) allowances or deductible expenses which are not taxed will not be counted towards income.
 - (c) Where income to which paragraph 19 applies is being used to meet the financial requirement for an initial application for leave to remain as a partner under Appendix FM by an applicant who used such income to meet that requirement in an application for entry clearance as a fiancé(e) or proposed civil partner under that Appendix in the last 12 months, the Secretary of State may continue to accept the same level and evidence of income to which paragraph 19 applies that was accepted in granting the application for entry clearance, provided that there is evidence of ongoing self-employment, and (where income from salaried employment is also relied upon or where paragraph 9(c) applies) ongoing employment, at the date of the application for leave to remain.
 - (d) The financial year(s) to which paragraph 7 refers is the period of the last full financial year(s) to which the required Statement(s) of Account (SA300 or SA302) relates.
 - (e) The financial year(s) to which paragraph 9 refers is the period of the last full financial year(s) to which the required Company Tax Return(s) CT600 relates.
20. When calculating income from specified non-employment sources under paragraphs 12A and 13 to 15, this paragraph applies:
- (a) Assets or savings must be in the name of the person, or jointly with their partner.
 - (b) Any asset or savings on which income is based must be held or owned by the person at the date of application.
 - (c) Any rental income from property, in the UK or overseas, must be from a property that is:
 - (i) owned by the person;
 - (ii) not their main residence and will not be so if the application is granted, except in the circumstances specified in paragraph 20(e); and
 - (iii) if ownership of the property is shared with a third party, only income received from their share of the property can be counted.
 - (cc) The amount of rental income from property received before any management fee was deducted may be counted.
 - (d) Equity in a property cannot be used to meet the financial requirement.
 - (e) Where the applicant and their partner are resident outside the UK at the date of application, rental income from a property in the UK that will become their main residence if the application is granted may only be counted under paragraph 13(c)(i) and paragraph 13(d)(ii).
 - (f) Any future entitlement to a maintenance grant or stipend of the type specified in paragraph 10(g) may be counted as though the person had received the annual amount of that grant or stipend in the 12 months prior to the date of application.

20A. When calculating the gross annual income from pension under paragraph 13, the gross annual amount of any pension received may be counted where the pension has become a source of income at least 28 days prior to the date of application.

21. When calculating income under paragraphs 13 to 16, the following sources will not be counted:

- (a) Loans and credit facilities.

- (b) Income-related benefits: Income Support, income-related Employment and Support Allowance, Pension Credit, Housing Benefit, Council Tax Benefit and income-based Jobseeker's Allowance.
- (c) The following contributory benefits: contribution-based Jobseeker's Allowance, contribution-based Employment and Support Allowance and Incapacity Benefit.
- (cc) Unemployability Allowance, Allowance for a Lowered Standard of Occupation and Invalidity Allowance under the War Pension Scheme.
- (d) Child Benefit.
- (e) Working Tax Credit.
- (f) Child Tax Credit.
- (ff) Universal Credit
- (g) Any other source of income not specified in this appendix.

Evidence of Marriage or Civil Partnerships

- 22. A claim to have been married in the United Kingdom must be evidenced by a marriage certificate.
- 23. A claim to be divorced in the United Kingdom must be evidenced by a decree absolute from a civil court.
- 24. A civil partnership in the United Kingdom must be evidenced by a civil partnership certificate.
- 25. The dissolution of a civil partnership in the UK must be evidenced by a final order of civil partnership dissolution from a civil court.
- 26. Marriages, civil partnerships or evidence of divorce or dissolution from outside the UK must be evidenced by a reasonable equivalent to the evidence detailed in paragraphs 22 to 25, valid under the law in force in the relevant country.

Evidence of the Applicant Living Overseas with a Crown Servant

26A. Where

- (a) An applicant for entry clearance, limited leave to enter or remain or indefinite leave to remain as a partner under Appendix FM (except as a fiancé(e) or proposed civil partner) intends to enter or remain in the UK to begin their probationary period (or has done so) and then to live outside the UK for the time being with their sponsor (or is doing so or has done so) before the couple live together permanently in the UK; and
- (b) The sponsor, who is a British Citizen or settled in the UK, is a permanent member of HM Diplomatic Service or a comparable UK-based staff member of the British Council, the Department for International Development or the Home Office on a tour of duty outside the UK, the applicant must provide a letter on official stationery from the sponsor's head of mission confirming the information at (a) and (b) and confirming the start date and expected end date of the sponsor's tour of duty outside the UK.

Evidence of English Language Requirements

- 27. Evidence of passing an English language test in speaking and listening must take the form of a certificate and/or other document(s) for the relevant test (which may include a print out of the online score from a PTE (Pearson) test or the Home Office must be able to verify the evidence online) as specified in Appendix O that:

(i) is from an English language test provider approved by the Secretary of State for these purposes as specified in Appendix O of these rules;

(ii) is for a test approved by the Secretary of State for these purposes as specified in Appendix O of these rules;

(iii) shows the applicant's name;

(iv) shows the qualification obtained (which must meet or exceed level A1 of the Common European Framework of Reference);

(v) shows the date of award;

(vi) shows that the test is within its validity date (where applicable); and

(vii) is for a test taken at a test centre approved by the Secretary of State as a Secure English Language Test centre.

28. The evidence required to show that a person is a citizen or national of a majority English speaking country is a valid passport or travel document, unless paragraphs 29 and 30 apply. A dual national may invoke either of their nationalities.

29. If the applicant has not provided their passport or travel document other evidence of nationality can be supplied in the following circumstances only (as indicated by the applicant on their application form):

- a. where the passport or travel document has been lost or stolen;
- b. where the passport or travel document has expired and been returned to the relevant authorities; or
- c. where the passport or travel document is with another part of the Home Office.

30. Alternative evidence as proof of nationality, if acceptable, must be either:

- a. A current national identity document; or
- b. An original letter from the applicant's Home Government, Embassy or High Commission confirming the applicant's full name, date of birth and nationality.

31. Evidence of an academic qualification (recognised by UK NARIC to be equivalent to the standard of a Bachelor's or Master's degree or PhD in the UK) and was taught in English must be either:

- a. A certificate issued by the relevant institution confirming the award of the academic qualification showing:
 - i. the applicant's name;
 - ii. the title of award;
 - iii. the date of award;
 - iv. the name of the awarding institution; and,
 - v. that the qualification was taught in English

or,

b. If the applicant is awaiting graduation or no longer has the certificate and cannot get a new one, the evidence must be:

i. an original academic reference from the institution awarding the academic qualification that;

1. is on official letter headed paper;
2. shows the applicant's name;
3. shows the title of award;
4. confirms that the qualification was taught in English;

5. explains when the academic qualification has been, or will be awarded; and
6. states either the date that the certificate will be issued (if the applicant has not yet graduated) or confirms that the institution is unable to re-issue the original certificate of award.

or

ii. an original academic transcript that

1. is on official letter headed paper
2. shows the applicant's name;
3. the name of the academic institution;
4. the course title;
5. confirms that the qualification was taught in English; and, (6) provides confirmation of the award.

32. If the qualification was taken in one of the following countries, it will be assumed for the purpose of paragraph 31 that it was taught in English: Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Ireland, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, the UK, the USA.

32A. For the avoidance of doubt paragraphs 27 to 32D of this Appendix apply to fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner and same sex partner applications for limited leave to enter or remain made under Part 8 of these Rules where English language requirements apply, regardless of the date of application. Paragraphs 27 to 32D of this Appendix also apply to spouse, civil partner, unmarried partner and same sex partner applications which do not meet the requirements of Part 8 of these Rules for indefinite leave to remain (where the application is for indefinite leave to remain) and are being considered for a grant of limited leave to remain where paragraph A277A(b) of these Rules applies. Any references in paragraphs 27 to 32D of this Appendix to "limited leave to enter or remain" shall therefore be read as referring to all applicants referred to in this paragraph.

32B. Where the decision-maker has:

- (a) reasonable cause to doubt that an English language test in speaking and listening at a minimum of level A1 of the Common Framework of Reference for Languages relied on at any time to meet a requirement for limited leave to enter or remain in Part 8 or Appendix FM was genuinely obtained; or
- (b) information that the test certificate or result awarded to the applicant has been withdrawn by the test provider for any reason, the decision-maker may discount the document and the applicant must provide a new test certificate or result from an approved provider which shows that they meet the requirement, if they are not exempt from it.

32C. If an applicant applying for limited leave to enter or remain under Part 8 or Appendix FM submits an English language test certificate or result which has ceased by the date of application to be:

- (a) from an approved test provider, or
- (b) in respect of an approved test, or
- (c) from an approved test centre,

the decision-maker will not accept that certificate or result as valid, unless the decision-maker does so in accordance with paragraph 32D of this Appendix and subject to any transitional arrangements made in respect of the test provider or test in question.

32D. If an applicant applying for limited leave to enter or remain under Part 8 or Appendix FM submits an English language test certificate or result and the Home Office has already accepted it as part of a successful previous partner or parent application (but not where the application was refused, even if on grounds other than the English language requirement), the decision-maker may accept that certificate or result as valid if it is:

- (a) from a provider which is no longer approved, or

- (b) from a provider who remains approved but the test the applicant has taken with that provider is no longer approved, or
- (c) from a test centre which is no longer approved, or
- (d) past its validity date (if a validity date is required under Appendix O), provided that when the subsequent application is made:
 - (i) the applicant has had continuous leave (disregarding any period of overstaying of no more than 28 days) as a partner or parent since the Home Office accepted the test certificate as valid; and
 - (ii) the award to the applicant does not fall within the circumstances set out in paragraph 32B of this Appendix.

Adult dependent relatives

33. Evidence of the family relationship between the applicant(s) and the sponsor should take the form of birth or adoption certificates, or other documentary evidence.
34. Evidence that, as a result of age, illness or disability, the applicant requires long-term personal care should take the form of:
- (a) Independent medical evidence that the applicant's physical or mental condition means that they cannot perform everyday tasks; and
 - (b) This must be from a doctor or other health professional.
35. Independent evidence that the applicant is unable, even with the practical and financial help of the sponsor in the UK, to obtain the required level of care in the country where they are living should be from:
- (a) a central or local health authority;
 - (b) a local authority; or
 - (c) a doctor or other health professional.
36. If the applicant's required care has previously been provided through a private arrangement, the applicant must provide details of that arrangement and why it is no longer available.
37. If the applicant's required level of care is not, or is no longer, affordable because payment previously made for arranging this care is no longer being made, the applicant must provide records of that payment and an explanation of why that payment cannot continue. If financial support has been provided by the sponsor or other close family in the UK, the applicant must provide an explanation of why this cannot continue or is no longer sufficient to enable the required level of care to be provided.

Appendix KOLL

PART 1. GENERAL

1.1

Purpose

This Appendix sets out how an applicant for indefinite leave to enter or remain must demonstrate sufficient knowledge of the English language and about life in the United Kingdom where it is a requirement of the Rules to demonstrate this for the purposes of an application for indefinite leave to enter or remain. It also sets out general exemptions to the requirement on grounds of age and enables the decision maker to waive the requirement in light of special circumstances in any particular case.

“Specified” in this Appendix means “specified in Part 4 of this appendix”

PART 2 - KNOWLEDGE OF LANGUAGE AND LIFE

2.1 An applicant for leave to enter or remain has sufficient knowledge of the English language and about life in the United Kingdom for the purpose of an application for indefinite leave to enter or remain made under these Rules if the requirements set out in paragraphs 2.2 and 2.3 are met unless the exceptions set out in Part 3 apply.

2.2 For the purposes of paragraph 2.1, an applicant demonstrates sufficient knowledge of the English language if:

- a) the applicant has provided specified documentary evidence that:
- i) the applicant is a national or citizen of one of the following countries:

Antigua and Barbuda
Australia
The Bahamas
Barbados
Belize
Canada
Dominica
Grenada
Guyana
Jamaica
New Zealand
St Kitts and Nevis
St Lucia
St Vincent and the Grenadines
Trinidad and Tobago
USA.

or

ii) the applicant has passed an English language test in speaking and listening at a minimum level B1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State as specified in Appendix O to these Rules and taken at a test centre approved by the Secretary of State as a Secure English Language Test centre; or

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

the UK, from an educational establishment in one of the following countries: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and The Grenadines; Trinidad and Tobago; the UK; the USA; and provides the specified documents; or

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

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

(2) UK NARIC has confirmed that the qualification was taught or researched in English; or

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

(1) he has the qualification, and

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

vi) the applicant has taken and passed in England, Wales or Northern Ireland a qualification in English for Speakers of Other Languages (ESOL) which:

(aa) includes speaking and listening;

(bb) is at ESOL Entry level 3, level 1, level 2 or level 3,

(cc) is regulated by the Office of Qualifications and Examinations Regulation (OFQUAL), the Welsh Government or the Council for Curriculum, Examinations and Assessment (CCEA), and

(dd) is listed as an ESOL qualification on the Register of Regulated Qualifications, or

vii) the applicant has passed in Scotland a National Qualification in English for Speakers of Other Languages at Scottish Credit and Qualifications Framework (SCQF) level 4, 5 or 6 awarded by the Scottish Qualifications Authority; or

(b) the applicant-

(i) has limited leave to enter or remain in the UK, and

(ii) that leave (or a grant of leave which preceded it provided any periods of leave since have been unbroken) was given on the basis that the applicant had an English language qualification at a minimum level of B1 on the Common European Framework of Reference for Languages, and

iii) at the date of application, the provider of that qualification continues to be approved by the Secretary of State as specified in Appendix O to these Rules.

2.3 For the purposes of sub-paragraph (1), an applicant demonstrates sufficient knowledge about life in the United Kingdom if:

a) the applicant has passed the test known as the “Life in the UK test” administered by learndirect limited; or

b) in respect of an applicant who was resident in the Isle of Man, the applicant took and passed the test in the Isle of Man known as the “Life in the UK test” and which was administered by an educational institution or other person approved for that purpose by the Lieutenant Governor; or

c) in respect of an applicant who was resident in the Bailiwick of Guernsey or in the Bailiwick of Jersey, the applicant took and passed the test known as the “Citizenship Test” and which was administered by an educational institution or other person approved for that purpose by the Lieutenant Governor of Guernsey or Jersey (as the case may be). 62

Part 3

Exceptions

3.1 Notwithstanding any requirement to the contrary in these Rules, for the purposes of this appendix, an applicant will not be required to demonstrate sufficient knowledge of the English language and about life in the UK where:

a) the applicant is under 18 years of age at the date of his or her application, or

b) the applicant is at least 65 years of age at the date of his or her application, or

c) in all the circumstances of the case, the decision maker considers that, because of the applicant’s mental or physical condition, it would be unreasonable to expect the applicant to fulfil that requirement.

3.2 In the following circumstances an applicant will be deemed to have demonstrated sufficient knowledge of the English language and about life in the UK:

a) Where the application for indefinite leave to enter or remain in the United Kingdom is made under:

i) paragraph 196D and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years as the spouse or civil partner of a person who has or has had leave to enter or remain under paragraphs 128-193 (but not paragraphs 135I -135K), or

ii) paragraph 199 and the applicant has had, as at the day on which the application was made, continuous leave to enter or remain in the United Kingdom for at least 15 years as the child of a person who has or has had leave to enter or remain in the United Kingdom under paragraphs 128–193 (but not paragraphs 135I-135K), or

iii) paragraph 248D and the applicant has had, as at the day on which the application was made, continuous leave to enter or remain in the United Kingdom for at least 15 years as a person exercising rights of access to a child resident in the United Kingdom and that child is under the age of 18 at the day on which the applicant’s application for indefinite leave is made under paragraph 248D, or

iv) paragraph 273D and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years as a spouse or civil partner of a person

who has or has had leave to enter or remain in the United Kingdom as a retired person of independent means, or

v) paragraph 275A and the applicant has had, as at the day on which the application was made, continuous leave to enter or remain in the United Kingdom for at least 15 years as the child of a person who has or has had leave to enter or remain in the United Kingdom as a retired person of independent means, or

vi) paragraph 287 and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years under paragraph 281 or paragraph 284, or

vii) paragraph 295G and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years under paragraph 295B or paragraph 295D, or

viii) paragraph 298 and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years under paragraph 302 or Appendix FM or paragraph 319R or paragraph 319X, or

ix) paragraph 319E and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years as the partner of a relevant points based system migrant

x) paragraph 319J and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years as the child of a relevant points based system migrant

xi) section E-ILRP of Appendix FM and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years on the day on which the application is made as a partner (except where leave is as a fiancé or proposed civil partner) under section D-LTRP of Appendix FM; or

xii) section E-ILRPT of Appendix FM and the applicant has had, as at the day on which the application is made, continuous leave to enter or remain in the United Kingdom for at least 15 years on the day on which the application is made as a parent under section D-ILRPT of Appendix FM, or

(xiii) paragraph 25 or 31 of Appendix Armed Forces and the applicant has completed, on the date on which the application is made, a continuous period of leave to enter or remain in the United Kingdom of at least 15 years as the partner of a member of HM Forces under that Appendix, or

(xiv) paragraph 45 or 49 of Appendix Armed Forces and the applicant has completed, on the date on which the application is made, a continuous period of leave to enter or remain in the United Kingdom of at least 15 years as the child of a member of HM Forces under that Appendix, and

(b)(i) the applicant has provided specified documentary evidence of an English language speaking and listening qualification at A2 CEFR or ESOL entry level 2 or Scottish Credit and Qualification Framework level 3; or
(ii) where paragraph 39C(c) of these Rules applies, the applicant has provided

specified documentary evidence of an English language speaking and listening qualification at A2 CEFR with a provider approved by the Secretary of State as specified in Appendix O to these Rules.

c) the applicant has provided specified documentary evidence from a qualified English language teacher that the applicant has made efforts to learn English but does not yet have sufficient knowledge of the English language to pass a qualification at B1 CEFR, or ESOL entry level 3 or Scottish Credit and Qualification Framework level 4, and

d) the applicant is not a national or a citizen of one of the following countries:

Antigua and Barbuda
Australia
The Bahamas
Barbados
Belize
Canada
Dominica
Grenada
Guyana
Jamaica
New Zealand
St Kitts and Nevis
St Lucia
St Vincent and the Grenadines
Trinidad and Tobago
USA.

3.3 Where paragraph 39C(c) of these Rules applies, an applicant demonstrates sufficient knowledge of the English language and about life in the UK where:

(i) upon a request by the decision-maker to provide additional evidence of knowledge of the English language, he or she has provided specified documentary evidence that he or she has passed an English language test in speaking and listening at a minimum B1 of the Common European Framework of Reference for Languages with a provider approved by the Secretary of State as specified in Appendix O to these Rules, unless paragraph 3.2 of this Appendix applies; or

(ii) upon a request by the decision-maker to provide additional evidence of knowledge about life in the UK, he or she has provided specified evidence that he or she has passed the test known as the "Life in the UK test" administered by learndirect limited under arrangements approved by the decision-maker; or

(iii) upon a request by the decision-maker to provide additional evidence of knowledge of the English language and about life in the UK, he or she has provided the evidence set out in sub-paragraphs (i) and (ii).

PART 4

SPECIFIED DOCUMENTS

4.1 Where these Rules require an applicant to demonstrate sufficient knowledge of the English language and of life in the United Kingdom, the applicant must supply the documents specified in paragraphs 4.6 to 4.14 below.

4.2 The decision maker will only consider evidence submitted after the date on which an application is made where the circumstances in paragraph 39(C)(c) of these Rules or

paragraphs 4.3 or 4.6 of this Appendix apply.

4.3 Where an applicant has submitted:

(i) a document in the wrong format (for example, if a letter is not on letterhead paper as specified); or

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

(iii) a document which does not contain all of the specified information, or

(iv) fails to submit a specified document,

the decision-maker may contact the applicant or his or her representative (in writing or otherwise), and request the document or the correct version of the document. The document must be received by the Home Office at the address specified in the request within such timescale (which will not be unreasonable) as is specified.

4.4 A decision-maker may decide not to request a document under paragraph 4.3 where he or she does not anticipate that the supply of that document will lead to a grant of leave to enter or remain in the United Kingdom because the application may be refused for other reasons.

4.5 Without prejudice to the decision maker's discretion under paragraph 4.2 and also his or her right in all cases to request the original or specified document and refuse an application in circumstances in which they are not provided, where an applicant submits a specified document:

(i) in the wrong format, or

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

(iii) which does not contain all of the specified information but the missing information is verifiable from,

(aa) other documents submitted with the application,

(bb) the website of the organisation which issued the document, or

(cc) the website of the appropriate regulatory body;

the application for leave to enter or remain in the United Kingdom may be granted exceptionally providing the decision-maker is satisfied that the specified documents are genuine and that the applicant meets all the other requirements.

4.6 Where the decision-maker is satisfied that there is a valid reason why a document has not been and cannot be supplied, (for example, because the document has been permanently lost or destroyed), he or she may waive the requirement for the document to be provided or may instead request alternative or additional evidence (which may include confirmation of evidence from the organisation which issued the original document).

4.7 The evidence specified for the purposes of paragraph 2.2 of this Appendix is:

a) a certificate that:

(i) is from an English language test provider approved by the

Secretary of State for the purposes of limited leave to enter or remain as specified in Appendix O of these Rules, and

is in respect of a test approved by the Secretary of State as specified in that Appendix, and

ii) shows the applicant's name; and

iii) shows the qualification obtained, and

iv) shows that the level of speaking and listening skills attained by the applicant met or exceeded level B1 of the Common European Framework of Reference, and

v) shows the date of award of the qualification; or,

b) a print out of the online score from a PTE Academic (Pearson) test which:

i) is from an English language test provider approved by the Secretary of State for the purposes of limited leave to enter or remain as specified in Appendix O of these rules, and

ii) is in respect of a test approved by the Secretary of State as specified in that Appendix , and

iii) can be used to show the qualification obtained; and,

iv) shows that the level of speaking and listening skills attained by the applicant met or exceeded level B1 of the Common European Framework of Reference; or

c) a certificate or other document issued by an awarding organisation that is recognised either by Ofqual, the Welsh Government, or CCEA that

i) is issued in England, Wales or Northern Ireland in respect of a qualification listed as an ESOL qualification in the OFQUAL Register of Regulated Qualifications, and

ii) shows that the level of speaking and listening skills attained by the applicant met or exceeded ESOL entry level 3; or

d) a certificate that

i) is issued in Scotland in respect of a National Qualification in English for Speakers of Other Languages awarded by the Scottish Qualifications Authority, and

ii) shows that the level of speaking and listening skills attained by the applicant met or exceeded Scottish Credit and Qualifications Framework level 4

4.8 Subject to paragraphs 4.9 and 4.10 the documentary evidence specified for the purposes of paragraph 2.2 of this Appendix as showing that a person is a national or a citizen of one of the countries listed in paragraph 2.2 is a valid passport or travel document which satisfactorily establishes the applicant's nationality.

4.9 If the applicant cannot provide their passport or travel document other

evidence of nationality of the type described in paragraph 4.10 may exceptionally be supplied in the following circumstances (the reason for which must be indicated by the applicant on their application form), where:

- (a) the applicant's passport has been lost or stolen, or
- (b) the applicant's passport has expired and has been returned to the relevant authorities, or
- (c) the applicant's passport is with another part of the Home Office.

4.10 Where paragraph 4.9 applies, the alternative evidence specified for the purposes of establishing the applicant's nationality is:

- (a) a valid national identity document; or
- (b) an original letter from the applicant's Home Government or Embassy confirming the applicant's full name, date of birth and nationality.

4.11. The evidence specified for the purposes of paragraph 2.2(a)(iii) and 2.2(a)(iv) (academic qualification recognised by UK NARIC) is:

- (a) a certificate issued by the relevant institution confirming the award of the academic qualification and showing:
 - (i) the applicant's name,
 - (ii) the title of the award,
 - (iii) the date of the award,
 - (iv) the name of the awarding institution, and,
 - (v) for paragraph 2.2 (iii) that the qualification was taught in English or,
- (b) where an applicant has not, at the date of application, formally graduated or no longer has his or her certificate and is unable to obtain a duplicate certificate:
 - (i) an original academic reference from the institution awarding the academic qualification that:
 - (aa) is on official letter headed paper,
 - (bb) shows the applicant's name,
 - (cc) shows the title of the award,
 - (dd) confirms that the qualification was taught in English,
 - (ee) states when the academic qualification was (or as the case may be, will be) awarded, and
 - (ff) confirms that the institution is unable to issue a duplicate certificate of award or (as the case may be in respect of an applicant who has not yet graduated) the date on which the certificate will be issued, or
 - (ii) an original academic transcript that;
 - (aa) is on official letter headed paper,

- (bb) shows the applicant's name,
- (cc) shows the name of the academic institution,
- (dd) shows the course title,
- (ee) confirms that the qualification was taught in English, and,
- (ff) confirms the award given.

4.12 In the absence of any evidence to the contrary, a qualification obtained in one of the following countries will be assumed for the purposes of this Appendix to have been taught in English: Antigua and Barbuda, Australia, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Ireland, Jamaica, New Zealand, St Kitts and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, the UK or the USA.

4.13 The evidence specified for the purposes of paragraph 3.2(b)(i) (evidence of English language speaking and listening) is the same as that specified for the purposes of paragraph 2.3(a)(vi) and 2.3 (a)(vii) except that:

- (a) references to B1 are to be read as references to A2,
- (b) references to ESOL levels Entry 3, level 1, level 2 and level 3 are to be read as references to ESOL Entry level 2, and
- (c) references to Scottish Credit and Qualification Framework Level 4, 5 and 6 are to be read as references to Scottish Qualification Framework Level 3.

4.13A. The evidence specified for the purposes of paragraph 3.2(b)(ii) (evidence of English language speaking and listening) is the same as that specified for the purposes of paragraph 2.2(a)(ii) except that references to B1 are to be read as references to A2.

4.14 (a) The evidence specified for the purposes of paragraph 3.2(c) (evidence from qualified English teacher) is a letter from the teacher which is signed by him or her and dated no more than 3 months before the date on which the application for indefinite leave to remain is made and which includes the following information:

- i) the applicant's name,
- ii) confirmation that the applicant has attended an English language class taught by that teacher for at least 75 guided learning hours and which was taught during the period of 12 months immediately preceding the date on which the application for indefinite leave to remain was made,
- iii) confirmation that the teacher has assessed that the speaking and listening level attained by the applicant is not at B1 level or above,
- iv) confirmation that the applicant is considered unlikely to attain B1 level through further study
- v) confirmation of the teacher's qualifications as an English language teacher within the meaning of this Appendix.

(b) For the purposes of paragraph (a)(ii) "guided learning hours" means the time during which a person is taught or given instruction and does not include

any time spent on unsupervised preparation or study.

4.15 The documentary evidence specified for the purposes of paragraph 2.3 of this Appendix is:

a) a pass notification letter issued by learndirect limited in respect of the test known as the “Life in the UK test”, or

b) where the “Life in the UK test” was taken and passed in the Isle of Man, a pass certificate in respect of the test issued by the relevant educational institution or other person approved for that purpose by the Lieutenant Governor, or

c) where the “Citizenship test” was taken in the Bailiwick of Guernsey or, as the case may be, in the Bailiwick of Jersey, a pass certificate issued by the relevant educational institution or other person approved for that purpose by the Lieutenant Governor of Guernsey or Jersey (as the case may be).

4.16 The evidence specified for the purposes of paragraph 3.3(i) of this Appendix (evidence of English language speaking and listening) is the same as that specified for the purpose of paragraph 2.2(a)(ii) of this Appendix.

4.17 The evidence specified for the purposes of paragraph 3.3(ii) of this Appendix (evidence of knowledge about life in the UK) is the same as that specified at paragraph 4.15(a) of this Appendix.

PART 5

INTERPRETATION

5.1 For the purposes of this Appendix “decision maker” means an Entry Clearance Officer or the Secretary of State.

5.2 For the purposes of this Appendix, “qualified English language teacher” means a person who holds a qualification in teaching English as a foreign language or in teaching English to speakers of other languages which was awarded by an awarding organisation regulated by OFQUAL or the Welsh Government or the CCEA or the Scottish Qualification Authority

Appendix T

Tuberculosis screening

Part 1 - applicable countries

Any person applying to enter the UK as described in paragraph A39, Part 1 General Provisions of the Immigration Rules must present at the time of application a valid medical certificate issued by a medical practitioner listed in Part 2 of this Appendix confirming that they have undergone screening for active pulmonary tuberculosis and that such tuberculosis is not present in the applicant.

- Afghanistan
- Algeria
- Angola
- Armenia
- Azerbaijan
- Bangladesh
- Belarus
- Benin
- Bhutan
- Bolivia
- Botswana
- Brunei Darussalam
- Burkina Faso
- Burma
- Burundi
- Cambodia
- Cape Verde
- Central African Republic
- Chad
- Cameroon
- China
- Congo
- Congo Democratic Republic
- Côte d'Ivoire
- Democratic People's Republic of Korea
- Djibouti
- Dominican Republic
- Ecuador
- Equatorial Guinea
- Eritrea
- Ethiopia
- Gabon
- Gambia
- Georgia
- Ghana
- Guatemala
- Guinea
- Guinea Bissau
- Guyana
- Haiti
- Hong Kong or Macau
- India
- Indonesia
- Iraq
- Kazakhstan
- Kenya
- Kiribati
- Korea
- Kyrgyzstan
- Laos
- Lesotho
- Liberia
- Madagascar
- Malawi
- Malaysia
- Mali
- Marshall Islands
- Mauritania
- Micronesia
- Moldova
- Mongolia
- Morocco
- Mozambique
- Namibia
- Nepal
- Niger
- Nigeria
- Pakistan
- Palau
- Papua New Guinea
- Panama
- Paraguay
- Peru
- Russian Federation
- Rwanda
- Sao Tome and Principe
- Senegal

- Sierra Leone
- Solomon Islands
- Somalia
- South Africa
- South Sudan
- Sri Lanka
- Sudan
- Tajikistan
- Swaziland
- Tanzania
- Timor Leste
- Togo
- Thailand
- The Philippines
- Turkmenistan
- Tuvalu
- Uganda
- Ukraine
- Uzbekistan
- Vanuatu
- Vietnam
- Zambia
- Zimbabwe

Applicants from Sao Tome and Principe are screened in Angola; those from Central African Republic, Chad and Gabon are screened in Cameroon; those from the People's Democratic Republic of Korea are screened in Beijing; those from Congo are screened in Democratic Republic of Congo; those from Djibouti are screened in Ethiopia, those from Kiribati, Marshall Islands, Micronesia, Tuvalu and Vanuatu are screened in Fiji; those from Cape Verde, Guinea Bissau and Mali are screening in Gambia or Senegal; those from Burkina Faso, Equatorial Guinea, Liberia, Niger and Togo are screened in Ghana; those from Macau are screened in Hong Kong; those from Timor Leste are screened in Indonesia; those from Kyrgyzstan are screened in Kazakhstan; those from Eritrea, Somalia and South Sudan are screened in Kenya; those from Mauritania are screened in Morocco; those from Benin are screened in Nigeria; those from Solomon Islands are screened in Papua New Guinea; those from Palau are screened in Philippines; those from Burundi are screened in Rwanda; those in Lesotho and Swaziland are screened in South Africa; those from Laos are screened in Thailand.

The Immigration (European Economic Area) Regulations 2006

Regulations 2-21B, 25-27, 29A

General interpretation

2. (1) In these Regulations—

“the 1971 Act” means the Immigration Act 1971;

“the 1999 Act” means the Immigration and Asylum Act 1999;

“the 2002 Act” means the Nationality, Immigration and Asylum Act 2002;

“the 2014 Act” means the Immigration Act 2014;

“the Accession Regulations” means the Accession (Immigration and Worker Registration) Regulations 2004;

“civil partner” does not include—

(a) a party to a civil partnership of convenience; or

(b) the civil partner (“C”) of a person (“P”) where a spouse, civil partner or durable partner of C or P is already present in the United Kingdom;

“decision maker” means the Secretary of State, an immigration officer or an entry clearance officer (as the case may be);

“derivative residence card” means a card issued to a person, in accordance with regulation 18A, as proof of the holder’s derivative right to reside in the United Kingdom as at the date of issue;

“deportation order” means an order made pursuant to regulation 24(3);

“document certifying permanent residence” means a document issued to an EEA national, in accordance with regulation 18, as proof of the holder’s permanent right of residence under regulation 15 as at the date of issue;

“durable partner” does not include the durable partner (“D”) of a person (“P”) where a spouse, civil partner or durable partner of D or P is already present in the United Kingdom and where that marriage, civil partnership or durable partnership is subsisting;

“EEA decision” means a decision under these Regulations that concerns—

(a) a person’s entitlement to be admitted to the United Kingdom;

(b) a person’s entitlement to be issued with or have renewed, or not to have revoked, a registration certificate, residence card, derivative residence card, document certifying permanent residence or permanent residence card;

(c) a person’s removal from the United Kingdom; or

(d) the cancellation, pursuant to regulation 20A, of a person’s right to reside in the United Kingdom;

but does not include decisions under regulations 24AA (human rights considerations and interim orders to suspend removal) or 29AA (temporary admission in order to submit case in person)

“EEA family permit” means a document issued to a person, in accordance with regulation 12, in connection with his admission to the United Kingdom;

“EEA national” means a national of an EEA State who is not also a British citizen;

“EEA State” means—

(a) a member State, other than the United Kingdom;

(b) Norway, Iceland or Liechtenstein; or

(c) Switzerland;

“entry clearance” has the meaning given in section 33(1) of the 1971 Act;

“entry clearance officer” means a person responsible for the grant or refusal of entry clearance;

“exclusion order” means an order made under regulation 19(1B)

“immigration rules” has the meaning given in section 33(1) of the 1971 Act;

“military service” means service in the armed forces of an EEA State;

“permanent residence card” means a card issued to a person who is not an EEA national, in accordance with regulation 18, as proof of the holder’s permanent right of residence under regulation 15 as at the date of issue;

“a qualifying EEA State residence card” means—

(a) a valid document called a “Residence card of a family member of a Union Citizen” issued under Article 10 of Council Directive 2004/38/EC (as applied, where relevant, by the EEA Agreement) by an EEA State listed in sub-paragraph (b) to a non-EEA family member of an EEA national as proof of the holder’s right of residence in that State;

(b) any EEA State, except Switzerland;

“registration certificate” means a certificate issued to an EEA national, in accordance with regulation 16, as proof of the holder’s right of residence in the United Kingdom as at the date of issue;

“relevant EEA national” in relation to an extended family member has the meaning given in regulation 8(6);

“residence card” means a card issued to a person who is not an EEA national, in accordance with regulation 17, as proof of the holder’s right of residence in the United Kingdom as at the date of issue;

“spouse” does not include—

(a) a party to a marriage of convenience; or

(b) the spouse (“S”) of a person (“P”) where a spouse, civil partner or durable partner of S or P is already present in the United Kingdom;

(2) Paragraph (1) is subject to paragraph 1(a) of Schedule 4 (transitional provisions).

(3) Section 11 of the 1971 Act (construction of references to entry)(4) shall apply for the purpose of determining whether a person has entered the United Kingdom for the purpose of these Regulations as it applies for the purpose of determining whether a person has entered the United Kingdom for the purpose of that Act.

Continuity of residence

3. (1) This regulation applies for the purpose of calculating periods of continuous residence in the United Kingdom under regulation 5(1) and regulation 15.

(2) Continuity of residence is not affected by —

(a) periods of absence from the United Kingdom which do not exceed six months in total in any year;

(b) periods of absence from the United Kingdom on military service; or

(c) any one absence from the United Kingdom not exceeding twelve months for an important reason such as pregnancy and childbirth, serious illness, study or vocational training or an overseas posting.

(3) But continuity of residence is broken if a person is removed from the United Kingdom under these Regulations.

“Worker”, “self-employed person”, “self-sufficient person” and “student”

4. (1) In these Regulations —

(a) “worker” means a worker within the meaning of Article 45 of the Treaty on the Functioning of the European Union;

(b) “self-employed person” means a person who establishes himself in order to pursue activity as a self-employed person in accordance with Article 49 of the Treaty on the Functioning of the European Union;

(c) “self-sufficient person” means a person who has—

(i) sufficient resources not to become a burden on the social assistance system of the United Kingdom during his period of residence; and

(ii) comprehensive sickness insurance cover in the United Kingdom;

(d) “student” means a person who—

(i) is enrolled, for the principal purpose of following a course of study (including vocational training), at a public or private establishment which is—

(aa) financed from public funds; or

(bb) otherwise recognised by the Secretary of State as an establishment which has been accredited for the purpose of providing such courses or training within the law or administrative practice of the part of the United Kingdom in which the establishment is located;

(ii) has comprehensive sickness insurance cover in the United Kingdom; and

(iii) assures the Secretary of State, by means of a declaration, or by such equivalent means as the person may choose, that he has sufficient resources not to become a burden on the social assistance system of the United Kingdom during his period of residence.

(2) For the purposes of paragraph (1)(c) or (d), where family members of the person concerned reside in the United Kingdom and their right to reside is dependent upon their being family members of that person—

(a) the requirement for that person to have sufficient resources not to become a burden on the social assistance system of the United Kingdom during his period of residence shall only be satisfied if his resources and those of the family members are sufficient to avoid him and the family members becoming such a burden;

(b) the requirement for that person to have comprehensive sickness insurance cover in the United Kingdom shall only be satisfied if he and his family members have such cover.

(3) Omitted

(4) For the purposes of paragraphs (1)(c) and (d) and paragraph (2), the resources of the person concerned and, where applicable, any family members, are to be regarded as sufficient if —

(a) they exceed the maximum level of resources which a British citizen and his family members may possess if he is to become eligible for social assistance under the United Kingdom benefit system; or

(b) paragraph (a) does not apply but, taking into account the personal situation of the person concerned and, where applicable, any family members, it appears to the decision maker that the resources of the person or persons concerned should be regarded as sufficient.

(5) For the purpose of regulation 15A(2) references in this regulation to “family members” includes a “primary carer” as defined in regulation 15A(7).

“Worker or self-employed person who has ceased activity”

5. (1) In these Regulations, “worker or self-employed person who has ceased activity” means an EEA national who satisfies the conditions in paragraph (2), (3), (4) or (5).

(2) A person satisfies the conditions in this paragraph if he—

(a) terminates his activity as a worker or self-employed person and—

(i) has reached the age at which he is entitled to a state pension on the date on which he terminates his activity; or

(ii) in the case of a worker, ceases working to take early retirement;

(b) pursued his activity as a worker or self-employed person in the United Kingdom for at least twelve months prior to the termination; and

(c) resided in the United Kingdom continuously for more than three years prior to the termination.

(3) A person satisfies the conditions in this paragraph if—

(a) he terminates his activity in the United Kingdom as a worker or self-employed person as a result of a permanent incapacity to work; and

(b) either—

(i) he resided in the United Kingdom continuously for more than two years prior to the termination; or

(ii) the incapacity is the result of an accident at work or an occupational disease that entitles him to a pension payable in full or in part by an institution in the United Kingdom.

(4) A person satisfies the conditions in this paragraph if—

(a) he is active as a worker or self-employed person in an EEA State but retains his place of residence in the United Kingdom, to which he returns as a rule at least once a week; and

(b) prior to becoming so active in that EEA State, he had been continuously resident and continuously active as a worker or self-employed person in the United Kingdom for at least three years.

(5) A person who satisfies the condition in paragraph (4)(a) but not the condition in paragraph (4)(b) shall, for the purposes of paragraphs (2) and (3), be treated as being active and resident in the United Kingdom during any period in which he is working or self-employed in the EEA State.

(6) The conditions in paragraphs (2) and (3) as to length of residence and activity as a worker or self-employed person shall not apply in relation to a person whose spouse or civil partner is a British citizen.

(7) Subject to regulations 6(2), 7A(3) or 7B(3), for the purposes of this regulation—

(a) periods of inactivity for reasons not of the person’s own making;

(b) periods of inactivity due to illness or accident; and

(c) in the case of a worker, periods of involuntary unemployment duly recorded by the relevant employment office,

shall be treated as periods of activity as a worker or self-employed person, as the case may be.

“Qualified person”

6. (1) In these Regulations, “qualified person” means a person who is an EEA national and in the United Kingdom as—

(a) a jobseeker;

(b) a worker;

- (c) a self-employed person;
- (d) a self-sufficient person; or
- (e) a student.

(2) Subject to regulations 7A(4) or 7B(4), a person who is no longer working shall not cease to be treated as a worker for the purpose of paragraph (1)(b) if—

- (a) he is temporarily unable to work as the result of an illness or accident;
- (b) he is in duly recorded involuntary unemployment after having been employed in the United Kingdom for at least one year, provided that he—
 - (i) has registered as a jobseeker with the relevant employment office; and
 - (ii) satisfies conditions A and B;
- (ba) he is in duly recorded involuntary unemployment after having been employed in the United Kingdom for less than one year, provided that he—
 - (i) has registered as a jobseeker with the relevant employment office; and
 - (ii) satisfies conditions A and B;
- (c) he is involuntarily unemployed and has embarked on vocational training; or
- (d) he has voluntarily ceased working and embarked on vocational training that is related to his previous employment.

(2A) A person to whom paragraph (2)(ba) applies may only retain worker status for a maximum of six months.

(3) A person who is no longer in self-employment shall not cease to be treated as a self-employed person for the purpose of paragraph (1)(c) if he is temporarily unable to pursue his activity as a self-employed person as the result of an illness or accident.

(4) For the purpose of paragraph (1)(a), a “jobseeker” is a person who satisfies conditions A, B and, where relevant, C.

(5) Condition A is that the person—

- (a) entered the United Kingdom in order to seek employment; or
- (b) is present in the United Kingdom seeking employment, immediately after enjoying a right to reside pursuant to paragraph (1)(b) to (e) (disregarding any period during which worker status was retained pursuant to paragraph (2)(b) or (ba)).

(6) Condition B is that the person can provide evidence that he is seeking employment and has a genuine chance of being engaged.

(7) A person may not retain the status of a worker pursuant to paragraph (2)(b), or jobseeker pursuant to paragraph (1)(a), for longer than the relevant period unless he can provide compelling evidence that he is continuing to seek employment and has a genuine chance of being engaged.

(8) In paragraph (7), “the relevant period” means—

- (a) in the case of a person retaining worker status pursuant to paragraph (2)(b), a continuous period of six months;
- (b) in the case of a jobseeker, 91 days, minus the cumulative total of any days during which the person concerned previously enjoyed a right to reside as a jobseeker, not including any days prior to a continuous absence from the United Kingdom of at least 12 months.

(9) Condition C applies where the person concerned has, previously, enjoyed a right to reside under this regulation as a result of satisfying conditions A and B—

(a) in the case of a person to whom paragraph (2)(b) or (ba) applied, for at least six months; or

(b) in the case of a jobseeker, for at least 91 days in total,

unless the person concerned has, since enjoying the above right to reside, been continuously absent from the United Kingdom for at least 12 months.

(10) Condition C is that the person has had a period of absence from the United Kingdom.

(11) Where condition C applies—

(a) paragraph (7) does not apply; and

(b) condition B has effect as if “compelling” were inserted before “evidence”.

Family member

7. (1) Subject to paragraph (2), for the purposes of these Regulations the following persons shall be treated as the family members of another person—

(a) his spouse or his civil partner;

(b) direct descendants of his, his spouse or his civil partner who are—

(i) under 21; or

(ii) dependants of his, his spouse or his civil partner;

(c) dependent direct relatives in his ascending line or that of his spouse or his civil partner;

(d) a person who is to be treated as the family member of that other person under paragraph (3).

(2) A person shall not be treated under paragraph (1)(b) or (c) as the family member of a student residing in the United Kingdom after the period of three months beginning on the date on which the student is admitted to the United Kingdom unless—

(a) in the case of paragraph (b), the person is the dependent child of the student or of his spouse or civil partner; or

(b) the student also falls within one of the other categories of qualified persons mentioned in regulation 6(1).

(3) Subject to paragraph (4), a person who is an extended family member and has been issued with an EEA family permit, a registration certificate or a residence card shall be treated as the family member of the relevant EEA national for as long as he continues to satisfy the conditions in regulation 8(2), (3), (4) or (5) in relation to that EEA national and the permit, certificate or card has not ceased to be valid or been revoked.

(4) Where the relevant EEA national is a student, the extended family member shall only be treated as the family member of that national under paragraph (3) if either the EEA family permit was issued under regulation 12(2), the registration certificate was issued under regulation 16(5) or the residence card was issued under regulation 17(4).

Application of the Accession Regulations

7A. (1) This regulation applies to an EEA national who was an accession State worker requiring registration on 30th April 2011 (‘an accession worker’).

(2) In this regulation—

“accession State worker requiring registration” has the same meaning as in regulation 1(2)(d) of the Accession Regulations;

“legally working” has the same meaning as in regulation 2(7) of the Accession Regulations.

(3) In regulation 5(7)(c), where the worker is an accession worker, periods of involuntary unemployment duly recorded by the relevant employment office shall be treated only as periods of activity as a worker—

(a) during any period in which regulation 5(4) of the Accession Regulations applied to that person; or

(b) when the unemployment began on or after 1st May 2011.

(4) Regulation 6(2) applies to an accession worker where he—

(a) was a person to whom regulation 5(4) of the Accession Regulations applied on 30th April 2011; or

(b) became unable to work, became unemployed or ceased to work, as the case maybe, on or after 1st May 2011.

(5) For the purposes of regulation 15, an accession worker shall be treated as having resided in accordance with these Regulations during any period before 1st May 2011 in which the accession worker—

(a) was legally working in the United Kingdom; or

(b) was a person to whom regulation 5(4) of the Accession Regulations applied.

(6) Subject to paragraph (7), a registration certificate issued to an accession worker under regulation 8 of the Accession Regulations shall, from 1st May 2011, be treated as if it was a registration certificate issued under these Regulations where the accession worker was legally working in the United Kingdom for the employer specified in that certificate on—

(a) 30th April 2011; or

(b) the date on which the certificate is issued where it is issued after 30th April 2011.

(7) Paragraph (6) does not apply—

(a) if the Secretary of State issues a registration certificate in accordance with regulation 16 to an accession worker on or after 1st May 2011; and

(b) from the date of registration stated on that certificate.

Application of the EU2 Regulations

7B. (1) This regulation applies to an EEA national who was an accession State national subject to worker authorisation before 1st January 2014.

(2) In this regulation—

“accession State national subject to worker authorisation” has the same meaning as in regulation 2 of the EU2 Regulations;

“the EU2 Regulations” means the Accession (Immigration and Worker Authorisation) Regulations 2006.

(3) Regulation 2(12) of the EU2 Regulations (accession State national subject to worker authorisation: legally working) has effect for the purposes of this regulation as it does for regulation 2(3) and (4) of the EU2 Regulations.

(4) In regulation 5(7)(c), where the worker is an accession State national subject to worker authorisation, periods of involuntary unemployment duly recorded by the relevant employment office must only be treated as periods of activity as a worker when the unemployment began on or after 1st January 2014.

(5) Regulation 6(2) applies to an accession State national subject to worker authorisation where the accession State national subject to worker authorisation became unable to work, became unemployed or ceased to work, as the case may be, on or after 1st January 2014.

(6) For the purposes of regulation 15, an accession State national subject to worker authorisation must be treated as having resided in accordance with these Regulations during any period before 1st January 2014 in which the accession State national subject to worker authorisation was legally working in the United Kingdom.

(7) An accession worker card issued to an accession State national subject to worker authorisation under regulation 11 of the EU2 Regulations before 1st January 2014 must be treated as if it were a registration certificate issued under these Regulations so long as it has not expired.

“Extended family member”

8. (1) In these Regulations “extended family member” means a person who is not a family member of an EEA national under regulation 7(1)(a), (b) or (c) and who satisfies the conditions in paragraph (2), (3), (4) or (5).

(2) A person satisfies the condition in this paragraph if the person is a relative of an EEA national, his spouse or his civil partner and—

(a) the person is residing in a country other than the United Kingdom and is dependent upon the EEA national or is a member of his household;

(b) the person satisfied the condition in paragraph (a) and is accompanying the EEA national to the United Kingdom or wishes to join him there; or

(c) the person satisfied the condition in paragraph (a), has joined the EEA national in the United Kingdom and continues to be dependent upon him or to be a member of his household.

(3) A person satisfies the condition in this paragraph if the person is a relative of an EEA national or his spouse or his civil partner and, on serious health grounds, strictly requires the personal care of the EEA national his spouse or his civil partner.

(4) A person satisfies the condition in this paragraph if the person is a relative of an EEA national and would meet the requirements in the immigration rules (other than those relating to entry clearance) for indefinite leave to enter or remain in the United Kingdom as a dependent relative of the EEA national were the EEA national a person present and settled in the United Kingdom.

(5) A person satisfies the condition in this paragraph if the person is the partner of an EEA national (other than a civil partner) and can prove to the decision maker that he is in a durable relationship with the EEA national.

(6) In these Regulations “relevant EEA national” means, in relation to an extended family member, the EEA national who is or whose spouse or civil partner is the relative of the extended family member for the purpose of paragraph (2), (3) or (4) or the EEA national who is the partner of the extended family member for the purpose of paragraph (5).

Family members of British citizens

9. (1) If the conditions in paragraph (2) are satisfied, these Regulations apply to a person who is the family member of a British citizen as if the British citizen (“P”) were an EEA national.

(2) The conditions are that—

(a) P is residing in an EEA State as a worker or self-employed person or was so residing before returning to the United Kingdom;

(b) if the family member of P is P’s spouse or civil partner, the parties are living together in the EEA State or had entered into the marriage or civil partnership and were living together in the EEA State before the British citizen returned to the United Kingdom; and

(c) the centre of P’s life has transferred to the EEA State where P resided as a worker or self-employed person.

(3) Factors relevant to whether the centre of P’s life has transferred to another EEA State include—

(a) the period of residence in the EEA State as a worker or self-employed person;

- (b) the location of P's principal residence;
- (c) the degree of integration of P in the EEA State.

(4) Where these Regulations apply to the family member of P, P is to be treated as holding a valid passport issued by an EEA State for the purpose of the application of regulation 13 to that family member.

“Family member who has retained the right of residence”

10. (1) In these Regulations, “family member who has retained the right of residence” means, subject to paragraph (8), a person who satisfies the conditions in paragraph (2), (3), (4) or (5).

(2) A person satisfies the conditions in this paragraph if—

- (a) he was a family member of a qualified person or of an EEA national with a permanent right of residence when that person died;
- (b) he resided in the United Kingdom in accordance with these Regulations for at least the year immediately before the death of the qualified person or the EEA national with a permanent right of residence; and
- (c) he satisfies the condition in paragraph (6).

(3) A person satisfies the conditions in this paragraph if—

- (a) he is the direct descendant of—
 - (i) a qualified person or an EEA national with a permanent right of residence who has died;
 - (ii) a person who ceased to be a qualified person on ceasing to reside in the United Kingdom; or
 - (iii) the person who was the spouse or civil partner of the qualified person or the EEA national with a permanent right of residence mentioned in sub-paragraph (i) when he died or is the spouse or civil partner of the person mentioned in sub-paragraph (ii); and
- (b) he was attending an educational course in the United Kingdom immediately before the qualified person or the EEA national with a permanent right of residence died or ceased to be a qualified person and continues to attend such a course.

(4) A person satisfies the conditions in this paragraph if the person is the parent with actual custody of a child who satisfies the condition in paragraph (3).

(5) A person satisfies the conditions in this paragraph if—

- (a) he ceased to be a family member of a qualified person or of an EEA national with a permanent right of residence on the termination of the marriage or civil partnership of that person;
- (b) he was residing in the United Kingdom in accordance with these Regulations at the date of the termination;
- (c) he satisfies the condition in paragraph (6); and
- (d) either—
 - (i) prior to the initiation of the proceedings for the termination of the marriage or the civil partnership the marriage or civil partnership had lasted for at least three years and the parties to the marriage or civil partnership had resided in the United Kingdom for at least one year during its duration;
 - (ii) the former spouse or civil partner of the qualified person has custody of a child of the qualified person or the EEA national with a permanent right of residence;

(iii) the former spouse or civil partner of the qualified person or the EEA national with a permanent right of residence has the right of access to a child of the qualified person or the EEA national with a permanent right of residence, where the child is under the age of 18 and where a court has ordered that such access must take place in the United Kingdom; or

(iv) the continued right of residence in the United Kingdom of the person is warranted by particularly difficult circumstances, such as he or another family member having been a victim of domestic violence while the marriage or civil partnership was subsisting.

(6) The condition in this paragraph is that the person—

(a) is not an EEA national but would, if he were an EEA national, be a worker, a self-employed person or a self-sufficient person under regulation 6; or

(b) is the family member of a person who falls within paragraph (a).

(7) In this regulation, “educational course” means a course within the scope of Article 12 of Council Regulation (EEC) No. 1612/68 on freedom of movement for workers.

(8) A person with a permanent right of residence under regulation 15 shall not become a family member who has retained the right of residence on the death or departure from the United Kingdom of the qualified person or the EEA national with a permanent right of residence or the termination of the marriage or civil partnership, as the case may be, and a family member who has retained the right of residence shall cease to have that status on acquiring a permanent right of residence under regulation 15.

PART 2 EEA RIGHTS

Right of admission to the United Kingdom

11. (1) An EEA national must be admitted to the United Kingdom if he produces on arrival a valid national identity card or passport issued by an EEA State.

(2) A person who is not an EEA national must be admitted to the United Kingdom if he is—

(a) a family member of an EEA national and produces on arrival a valid passport and a qualifying EEA State residence card, provided the conditions in regulation 19(2)(a) (non-EEA family member to be accompanying or joining EEA national in the United Kingdom) and (b) (EEA national must have a right to reside in the United Kingdom under these Regulations) are met; or

(b) a family member of an EEA national, a family member who has retained the right of residence, a person who meets the criteria in paragraph (5) or a person with a permanent right of residence under regulation 15 and produces on arrival—

(i) a valid passport; and

(ii) an EEA family permit, a residence card, a derivative residence card or a permanent residence card.

(3) An immigration officer must not place a stamp in the passport of a person admitted to the United Kingdom under this regulation who is not an EEA national if the person produces a residence card, a derivative residence card, a permanent residence card or a qualifying EEA State residence card.

(4) Before an immigration officer refuses admission to the United Kingdom to a person under this regulation because the person does not produce on arrival a document mentioned in paragraph (1) or (2), the immigration officer must give the person every reasonable opportunity to obtain the document or have it brought to him within a reasonable period of time or to prove by other means that he is—

(a) an EEA national;

(b) a family member of an EEA national with a right to accompany that national or join him in the United Kingdom;

(ba) a person who meets the criteria in paragraph (5); or

(c) a family member who has retained the right of residence or a person with a permanent right of residence under regulation 15.

(5) A person (“P”) meets the criteria in this paragraph where—

(a) P previously resided in the United Kingdom pursuant to regulation 15A(3) and would be entitled to reside in the United Kingdom pursuant to that regulation were P in the country;

(b) P is accompanying an EEA national to, or joining an EEA national in, the United Kingdom and P would be entitled to reside in the United Kingdom pursuant to regulation 15A(2) were P and the EEA national both in the United Kingdom;

(c) P is accompanying a person (“the relevant person”) to, or joining the relevant person in, the United Kingdom and—

(i) the relevant person is residing, or has resided, in the United Kingdom pursuant to regulation 15A(3); and

(ii) P would be entitled to reside in the United Kingdom pursuant to regulation 15A(4) were P and the relevant person both in the United Kingdom;

(d) P is accompanying a person who meets the criteria in (b) or (c) (“the relevant person”) to the United Kingdom and—

(i) P and the relevant person are both—

(aa) seeking admission to the United Kingdom in reliance on this paragraph for the first time; or

(bb) returning to the United Kingdom having previously resided there pursuant to the same provisions of regulation 15A in reliance on which they now base their claim to admission; and

(ii) P would be entitled to reside in the United Kingdom pursuant to regulation 15A(5) were P and the relevant person there; or

(e) P is accompanying a British citizen to, or joining a British citizen in, the United Kingdom and P would be entitled to reside in the United Kingdom pursuant to regulation 15A(4A) were P and the British citizen both in the United Kingdom.

(6) Paragraph (7) applies where—

(a) a person (“P”) seeks admission to the United Kingdom in reliance on paragraph (5)(b), (c) or (e); and

(b) if P were in the United Kingdom, P would have a derived right of residence by virtue of regulation 15A(7)(b)(ii).

(7) Where this paragraph applies a person (“P”) will only be regarded as meeting the criteria in paragraph (5)(b), (c) or (e) where P—

(a) is accompanying the person with whom P would on admission to the United Kingdom jointly share care responsibility for the purpose of regulation 15A(7)(b)(ii); or

(b) has previously resided in the United Kingdom pursuant to regulation 15A(2), (4) or (4A) as a joint primary carer and seeks admission to the United Kingdom in order to reside there again on the same basis.

(8) But this regulation is subject to regulations 19(1), (1A), (1AB) and (2) and 23A.

Issue of EEA family permit

12. (1) An entry clearance officer must issue an EEA family permit to a person who applies for one if the person is a family member of an EEA national and—

(a) the EEA national—

(i) is residing in the UK in accordance with these Regulations; or

(ii) will be travelling to the United Kingdom within six months of the date of the application and will be an EEA national residing in the United Kingdom in accordance with these Regulations on arrival in the United Kingdom; and

(b) the family member will be accompanying the EEA national to the United Kingdom or joining the EEA national there.

(1A) An entry clearance officer must issue an EEA family permit to a person who applies and provides proof that, at the time at which he first intends to use the EEA family permit, he—

(a) would be entitled to be admitted to the United Kingdom by virtue of regulation 11(5); and

(b) will (save in the case of a person who would be entitled to be admitted to the United Kingdom by virtue of regulation 11(5)(a)) be accompanying to, or joining in, the United Kingdom any person from whom his right to be admitted to the United Kingdom under regulation 11(5) will be derived.

(1B) An entry clearance officer must issue an EEA family permit to a family member who has retained the right of residence.

(2) An entry clearance officer may issue an EEA family permit to an extended family member of an EEA national who applies for one if—

(a) the relevant EEA national satisfies the condition in paragraph (1)(a);

(b) the extended family member wishes to accompany the relevant EEA national to the United Kingdom or to join him there; and

(c) in all the circumstances, it appears to the entry clearance officer appropriate to issue the EEA family permit.

(3) Where an entry clearance officer receives an application under paragraph (2) he shall undertake an extensive examination of the personal circumstances of the applicant and if he refuses the application shall give reasons justifying the refusal unless this is contrary to the interests of national security.

(4) An EEA family permit issued under this regulation shall be issued free of charge and as soon as possible.

(5) But an EEA family permit shall not be issued under this regulation if the applicant or the EEA national concerned is not entitled to be admitted to the United Kingdom as a result of regulation 19(1A) or (1AB) or falls to be excluded in accordance with regulation 19(1B) falls to be excluded from the United Kingdom on grounds of public policy, public security or public health in accordance with regulation 21.

(6) An EEA family permit will not be issued under this regulation to a person (“A”) who is the spouse, civil partner or durable partner of a person (“B”) where a spouse, civil partner or durable partner of A or B holds a valid EEA family permit.

Initial right of residence

13. (1) An EEA national is entitled to reside in the United Kingdom for a period not exceeding three months beginning on the date on which he is admitted to the United Kingdom provided that he holds a valid national identity card or passport issued by an EEA State.

(2) A family member of an EEA national or a family member who has retained the right of residence who is residing in the United Kingdom under paragraph (1) who is not himself an EEA national is entitled to reside in the United Kingdom provided that he holds a valid passport.

(3) An EEA national or his family member who becomes an unreasonable burden on the social assistance system of the United Kingdom will cease to have a right to reside under this regulation.

(4) A person who otherwise satisfies the criteria in this regulation will not be entitled to reside in the United Kingdom under this regulation where the Secretary of State or an immigration officer has made a decision under —

(a) regulation 19(3)(b), 20(1), 20A(1) or 23A; or

(b) regulation 21B(2), where that decision was taken in the preceding twelve months

Extended right of residence

14. (1) A qualified person is entitled to reside in the United Kingdom for so long as he remains a qualified person.

(2) A family member of a qualified person residing in the United Kingdom under paragraph (1) or of an EEA national with a permanent right of residence under regulation 15 is entitled to reside in the United Kingdom for so long as he remains the family member of the qualified person or EEA national.

(3) A family member who has retained the right of residence is entitled to reside in the United Kingdom for so long as he remains a family member who has retained the right of residence.

(4) A right to reside under this regulation is in addition to any right a person may have to reside in the United Kingdom under regulation 13 or 15.

(5) A person who otherwise satisfies the criteria in this regulation will not be entitled to a right to reside in the United Kingdom under this regulation where the Secretary of State or an immigration officer has made a decision under —

(a) regulation 19(3)(b), 20(1), 20A(1) or 23A; or

(b) regulation 21B(2) (not including such a decision taken on the basis of regulation 21B(1)(a) or (b)), where that decision was taken in the preceding twelve months.

Permanent right of residence

15. (1) The following persons shall acquire the right to reside in the United Kingdom permanently—

(a) an EEA national who has resided in the United Kingdom in accordance with these Regulations for a continuous period of five years;

(b) a family member of an EEA national who is not himself an EEA national but who has resided in the United Kingdom with the EEA national in accordance with these Regulations for a continuous period of five years;

(c) a worker or self-employed person who has ceased activity;

(d) the family member of a worker or self-employed person who has ceased activity;

(e) a person who was the family member of a worker or self-employed person where—

(i) the worker or self-employed person has died;

(ii) the family member resided with him immediately before his death; and

(iii) the worker or self-employed person had resided continuously in the United Kingdom for at least the two years immediately before his death or the death was the result of an accident at work or an occupational disease;

(f) a person who—

(i) has resided in the United Kingdom in accordance with these Regulations for a continuous period of five years; and

(ii) was, at the end of that period, a family member who has retained the right of residence.

(1A) Residence in the United Kingdom as a result of a derivative right of residence does not constitute residence for the purpose of this regulation.

(2) The right of permanent residence under this regulation shall be lost only through absence from the United Kingdom for a period exceeding two consecutive years.

(3) A person who satisfies the criteria in this regulation will not be entitled to a permanent right to reside in the United Kingdom where the Secretary of State or an immigration officer has made a decision under —

(a) regulation 19(3)(b), 20(1), 20A(1) or 23A; or

(b) regulation 21B(2) (not including such a decision taken on the basis of regulation 21B(1)(a) or (b)), where that decision was taken in the preceding twelve months

Derivative right of residence

15A. (1) A person (“P”) who is not an exempt person and who satisfies the criteria in paragraph (2), (3), (4), (4A) or (5) of this regulation is entitled to a derivative right to reside in the United Kingdom for as long as P satisfies the relevant criteria.

(2) P satisfies the criteria in this paragraph if—

(a) P is the primary carer of an EEA national (“the relevant EEA national”); and

(b) the relevant EEA national—

(i) is under the age of 18;

(ii) is residing in the United Kingdom as a self-sufficient person; and

(iii) would be unable to remain in the United Kingdom if P were required to leave.

(3) P satisfies the criteria in this paragraph if—

(a) P is the child of an EEA national (“the EEA national parent”);

(b) P resided in the United Kingdom at a time when the EEA national parent was residing in the United Kingdom as a worker; and

(c) P is in education in the United Kingdom and was in education there at a time when the EEA national parent was in the United Kingdom.

(4) P satisfies the criteria in this paragraph if—

(a) P is the primary carer of a person meeting the criteria in paragraph (3) (“the relevant person”); and

(b) the relevant person would be unable to continue to be educated in the United Kingdom if P were required to leave.

(4A) P satisfies the criteria in this paragraph if—

(a) P is the primary carer of a British citizen (“the relevant British citizen”);

(b) the relevant British citizen is residing in the United Kingdom; and

(c) the relevant British citizen would be unable to reside in the UK or in another EEA State if P were required to leave.

(5) P satisfies the criteria in this paragraph if—

(a) P is under the age of 18;

(b) P’s primary carer is entitled to a derivative right to reside in the United Kingdom by virtue of paragraph (2) or (4);

(c) P does not have leave to enter, or remain in, the United Kingdom; and

(d) requiring P to leave the United Kingdom would prevent P’s primary carer from residing in the United Kingdom.

(6) For the purpose of this regulation—

(a) “education” excludes nursery education;

(b) “worker” does not include a jobseeker or a person who falls to be regarded as a worker by virtue of regulation 6(2); and

(c) “an exempt person” is a person—

(i) who has a right to reside in the United Kingdom as a result of any other provision of these Regulations;

(ii) who has a right of abode in the United Kingdom by virtue of section 2 of the 1971 Act;

(iii) to whom section 8 of the 1971 Act, or any order made under subsection (2) of that provision, applies; or

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

(7) P is to be regarded as a “primary carer” of another person if

(a) P is a direct relative or a legal guardian of that person; and

(b) P—

(i) is the person who has primary responsibility for that person’s care; or

(ii) shares equally the responsibility for that person’s care with one other person who is not an exempt person.

(7A) Where P is to be regarded as a primary carer of another person by virtue of paragraph (7)(b)(ii) the criteria in paragraphs (2)(b)(iii), (4)(b) and (4A)(c) shall be considered on the basis that both P and the person with whom care responsibility is shared would be required to leave the United Kingdom.

(7B) Paragraph (7A) does not apply if the person with whom care responsibility is shared acquired a derivative right to reside in the United Kingdom as a result of this regulation prior to P assuming equal care responsibility.

(8) P will not be regarded as having responsibility for a person’s care for the purpose of paragraph (7) on the sole basis of a financial contribution towards that person’s care.

(9) A person who otherwise satisfies the criteria in paragraph (2), (3), (4), (4A) or (5) will not be entitled to a derivative right to reside in the United Kingdom where the Secretary of State or an immigration officer has made a decision under—

(a) regulation 19(3)(b), 20(1), 20A(1) or 23A; or

(b) regulation 21B(2), where that decision was taken in the preceding twelve months.

Continuation of a right of residence

15B. (1) This regulation applies during any period in which, but for the effect of regulation 13(4), 14(5), 15(3) or 15A(9), a person (“P”) who is in the United Kingdom would be entitled to reside here pursuant to these Regulations.

(2) Where this regulation applies, any right of residence will (notwithstanding the effect of regulation 13(4), 14(5), 15(3) or 15A(9)) be deemed to continue during any period in which—

(a) an appeal under regulation 26 could be brought, while P is in the United Kingdom, against a relevant decision (ignoring any possibility of an appeal out of time with permission); or

(b) an appeal under regulation 26 against a relevant decision, brought while P is in the United Kingdom, is pending.

(3) Periods during which residence pursuant to regulation 14 is deemed to continue as a result of paragraph (2) will not constitute residence for the purpose of regulation 15 unless and until—

(a) a relevant decision is withdrawn by the Secretary of State; or

(b) an appeal against a relevant decision is allowed and that appeal is finally determined.

(4) Periods during which residence is deemed to continue as a result of paragraph (2) will not constitute residence for the purpose of regulation 21(4)(a) unless and until—

(a) a relevant decision is withdrawn by the Secretary of State; or

(b) an appeal against a relevant decision is allowed and that appeal is finally determined.

(5) A “relevant decision” for the purpose of this regulation means a decision pursuant to regulation 19(3)(b), 20(1) or 20A(1) which would, but for the effect of paragraph (2), prevent P from residing in the United Kingdom pursuant to these Regulations.

(6) This regulation does not affect the ability of the Secretary of State to give directions for P’s removal while an appeal is pending or before it is finally determined.

(7) In this regulation, “pending” and “finally determined” have the meanings given in section 104 of the 2002 Act.

PART 3 RESIDENCE DOCUMENTATION

Issue of registration certificate

16. (1) The Secretary of State must issue a registration certificate to a qualified person immediately on application and production of—

(a) a valid identity card or passport issued by an EEA State;

(b) proof that he is a qualified person.

(2) In the case of a worker, confirmation of the worker’s engagement from his employer or a certificate of employment is sufficient proof for the purposes of paragraph (1)(b).

(3) The Secretary of State must issue a registration certificate to an EEA national who is the family member of a qualified person or of an EEA national with a permanent right of residence under regulation 15 immediately on application and production of—

(a) a valid identity card or passport issued by an EEA State; and

(b) proof that the applicant is such a family member.

(4) The Secretary of State must issue a registration certificate to an EEA national who is a family member who has retained the right of residence on application and production of—

(a) a valid identity card or passport; and

(b) proof that the applicant is a family member who has retained the right of residence.

(5) The Secretary of State may issue a registration certificate to an extended family member not falling within regulation 7(3) who is an EEA national on application if—

(a) the relevant EEA national in relation to the extended family member is a qualified person or an EEA national with a permanent right of residence under regulation 15; and

(b) in all the circumstances it appears to the Secretary of State appropriate to issue the registration certificate.

(6) Where the Secretary of State receives an application under paragraph (5) he shall undertake an extensive examination of the personal circumstances of the applicant and if he refuses the application shall give reasons justifying the refusal unless this is contrary to the interests of national security.

(7) A registration certificate issued under this regulation shall state the name and address of the person registering and the date of registration.

(8) But this regulation is subject to regulations 7A(6) and 20(1).

Issue of residence card

17. (1) The Secretary of State must issue a residence card to a person who is not an EEA national and is the family member of a qualified person or of an EEA national with a permanent right of residence under regulation 15 on application and production of—

(a) a valid passport; and

(b) proof that the applicant is such a family member.

(2) The Secretary of State must issue a residence card to a person who is not an EEA national but who is a family member who has retained the right of residence on application and production of—

(a) a valid passport; and

(b) proof that the applicant is a family member who has retained the right of residence.

(3) On receipt of an application under paragraph (1) or (2) and the documents that are required to accompany the application the Secretary of State shall immediately issue the applicant with a certificate of application for the residence card and the residence card shall be issued no later than six months after the date on which the application and documents are received.

(4) The Secretary of State may issue a residence card to an extended family member not falling within regulation 7(3) who is not an EEA national on application if—

(a) the relevant EEA national in relation to the extended family member is a qualified person or an EEA national with a permanent right of residence under regulation 15; and

(b) in all the circumstances it appears to the Secretary of State appropriate to issue the residence card.

(5) Where the Secretary of State receives an application under paragraph (4) he shall undertake an extensive examination of the personal circumstances of the applicant and if he refuses the application shall give reasons justifying the refusal unless this is contrary to the interests of national security.

(6) A residence card issued under this regulation may take the form of a stamp in the applicant's passport and shall be valid for—

(a) five years from the date of issue; or

(b) in the case of a residence card issued to the family member or extended family member of a qualified person, the envisaged period of residence in the United Kingdom of the qualified person,

whichever is the shorter.

(6A) A residence card issued under this regulation shall be entitled "Residence card of a family member of an EEA national" or "Residence card of a family member who has retained the right of residence", as the case may be.

(7) Omitted.

(8) But this regulation is subject to regulation 20(1) and (1A).

Issue of a document certifying permanent residence and a permanent residence card

18. (1) The Secretary of State must issue an EEA national with a permanent right of residence under regulation 15 with a document certifying permanent residence as soon as possible after an application for such a document and proof that the EEA national has such a right is submitted to the Secretary of State.

(2) The Secretary of State must issue a person who is not an EEA national who has a permanent right of residence under regulation 15 with a permanent residence card no later than six months after the date on which an application for a permanent residence card and proof that the person has such a right is submitted to the Secretary of State.

(3) Subject to paragraph (5), a permanent residence card shall be valid for ten years from the date of issue and must be renewed on application.

(4) Omitted.

(5) A document certifying permanent residence and a permanent residence card shall cease to be valid if the holder ceases to have a right of permanent residence under regulation 15.

(6) But this regulation is subject to regulation 20.

Issue of a derivative residence card

18A. (1) The Secretary of State must issue a person with a derivative residence card on application and on production of—

(a) a valid identity card issued by an EEA State or a valid passport; and

(b) proof that the applicant has a derivative right of residence under regulation 15A.

(2) On receipt of an application under paragraph (1) the Secretary of State must issue the applicant with a certificate of application as soon as possible.

(3) A derivative residence card issued under paragraph (1) may take the form of a stamp in the applicant's passport and will be valid until—

(a) a date five years from the date of issue; or

(b) any other date specified by the Secretary of State when issuing the derivative residence card.

(4) A derivative residence card issued under paragraph (1) must be issued and as soon as practicable.

(5) But this regulation is subject to regulations 20(1) and 20(1A).

...

PART 7 GENERAL

Alternative evidence of identity and nationality

29A. (1) Subject to paragraph (2), where a provision of these Regulations requires a person to hold or produce a valid identity card issued by an EEA State or a valid passport the Secretary of State may accept alternative evidence of identity and nationality where the person is unable to obtain or produce the required document due to circumstances beyond his or her control.

(2) This regulation does not apply to regulation 11

List of Commonwealth Countries by Region

(<http://thecommonwealth.org/member-countries>)

Africa

Botswana
Cameroon
Ghana
Kenya
Lesotho
Malawi
Mauritius
Mozambique
Namibia
Nigeria
Rwanda
Seychelles
Sierra Leone
South Africa
Swaziland
Uganda
United Republic of Tanzania
Zambia

Asia

Bangladesh
Brunei Darussalam
India
Malaysia
Maldives
Pakistan
Singapore
Sri Lanka

Caribbean and Americas

Antigua and Barbuda
Bahamas, The
Barbados
Belize
Canada
Dominica
Grenada
Guyana
Jamaica
St Kitts and Nevis
St Lucia
St Vincent and The Grenadines
Trinidad and Tobago

Europe

Cyprus
Malta
United Kingdom

Pacific

Australia
Fiji
Kiribati
Nauru
New Zealand
Papua New Guinea
Samoa
Solomon Islands
Tonga
Tuvalu
Vanuatu

The Immigration (Health Charge) Order 2015

The Secretary of State makes the following Order in exercise of the powers conferred by sections 38 and 74(8) of the Immigration Act 2014(a). In accordance with section 38(4) of that Act, in specifying the amount of the charge under section 38(3)(b) of the Act, the Secretary of State has (among other matters) had regard to the range of health services which are likely to be available to persons who have been given immigration permission.

In accordance with section 74(2) of the Immigration Act 2014 a draft of this Order was laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Immigration (Health Charge) Order 2015 and comes into force 21 days after the day on which it is made.

Interpretation

2. In this Order—

“the 2014 Act” means the Immigration Act 2014;

“entry clearance officer” means a person entitled under the immigration rules to grant or refuse entry clearance;

“immigration rules” means rules made under section 3(2) of the Immigration Act 1971(b).

Requirement to pay an immigration health charge

3.—(1) A person who applies for—

(a) entry clearance of a type mentioned in section 38(2)(b) or (c) of the 2014 Act, or

(b) leave to remain in the United Kingdom for a limited period, must pay a charge to the Secretary of State, subject to article 7.

(a) 2014 c. 22.

(b) 1971 c. 77.

(2) A person is required by paragraph (1) to pay a separate charge in respect of each application made by the person.

Amount of the charge

4.—(1) The table in Schedule 1 to this Order provides for the annual amount (“the specified annual amount”) which must be paid in respect of each type of application specified in that table.

(2) The total amount of the charge which a person is required to pay in respect of each application by virtue of article 3 is to be calculated in accordance with paragraphs (3) to (6).

(3) Where a person applies for entry clearance under a paragraph of the immigration rules, the person must pay the specified annual amount for each year of the maximum period of leave to enter the United Kingdom which could—

(a) have effect upon the person's arrival in the United Kingdom by virtue of provision made under section 3A(3) of the Immigration Act 1971, or

(b) be granted pursuant to the entry clearance, if the entry clearance is granted for the maximum period provided for under the immigration rules in respect of that paragraph.

(4) Where a person applies for leave to remain for a limited period under a paragraph of the immigration rules, the person must pay the specified annual amount for each year of the maximum period of leave to remain which could be granted pursuant to the application under the immigration rules in respect of that paragraph.

(5) Where a person applies for entry clearance or leave to remain outside the immigration rules, the person must pay the specified annual amount multiplied by 2.5.

(6) Where the maximum period of leave to enter or remain mentioned in paragraph (3) or (4) would be less than a year or would include part of a year, if the part year is—

(a) 6 months or less, the amount payable for that part is half of the specified annual amount; (b) more than 6 months, the amount payable for that part is the specified annual amount.

When a charge must be paid

5.—(1) A person required by article 3 to pay a charge must pay the amount required when the person applies for entry clearance or leave to remain, as applicable.

(2) A charge is only paid as required by paragraph (1) where the person does not cancel or otherwise reclaim that payment subsequently, and provided the charge has not been wholly refunded under article 8.

Consequences of a failure to pay a charge

6.—(1) Where a person required by article 3 to pay a charge fails to pay the required amount in accordance with article 5, and the entry clearance or leave to remain, as applicable, has not yet been granted or refused, subject to paragraph (2)—

(a) an entry clearance officer or the Secretary of State, as applicable, may request that the person pays the outstanding charge;

(b) the person must pay the outstanding charge—

(i) in the case of an application for entry clearance, within 7 working days beginning with the date when the request for the payment under sub-paragraph (a) is sent in writing or made by telephone or in person, or

(ii) in the case of an application for leave to remain, within 10 working days beginning with the date when the request for the payment under sub-paragraph (a) is sent in writing or made by telephone or in person;

(c) if the outstanding charge is not paid within the time period mentioned in—

(i) sub-paragraph (b)(i), the application for entry clearance must be refused by an entry clearance officer, or

(ii) sub-paragraph (b)(ii), the application for leave to remain must be treated as invalid by the Secretary of State,

as applicable.

(2) Where a person makes an application for entry clearance or leave to remain and, before the application has been granted or refused, cancels or otherwise reclaims the amount of the charge, the application for entry clearance or leave to remain, as applicable, must be refused by the entry clearance officer or the Secretary of State.

(3) Where a person has been granted entry clearance or leave to remain, as applicable, but cancels or otherwise reclaims the amount of the charge—

- (a) any entry clearance granted must be revoked by an entry clearance officer;
- (b) any leave to enter conferred or granted pursuant to an entry clearance must be cancelled by an immigration officer (appointed under paragraph 1(1) of Schedule 2 to the Immigration Act 1971); and
- (c) any leave to remain granted must be cancelled by the Secretary of State.

(4) Paragraph (5) applies where—

- (a) a person has been refused entry clearance or leave to remain,
- (b) the Secretary of State has refunded the total amount of the charge under article 8, and (c) the refusal is subsequently found to be unlawful by a competent court or tribunal.

(5) Where this paragraph applies—

- (a) the entry clearance officer or the Secretary of State, as applicable, may request that the person pays the charge;
- (b) the person must pay the charge within 10 working days beginning with the date when the request for payment under sub-paragraph (a) is sent in writing or made by telephone or in person;
- (c) if the charge is not paid within the period mentioned in sub-paragraph (b), the application for entry clearance or leave to remain must be refused by the entry clearance officer or the Secretary of State, as applicable.

Exemptions from the requirement to pay the immigration health charge

7. Schedule 2, which provides for circumstances when a person is exempt from paying the charge under article 3, has effect.

Reduction, waiver or refund

8. The Secretary of State has discretion to reduce, waive or refund all or part of a charge.

Home Office *Name* Date Minister of State

SCHEDULE 1

Article 4

Table

<i>Type of application</i>	<i>Annual amount</i>
Application for entry clearance or leave to remain as a student, in accordance with the immigration rules.	£150
Application for entry clearance or leave to remain as the dependant of a student, in accordance with the immigration rules.	£150

SCHEDULE 2

1. A person is exempt from paying a charge under article 3 where the person makes an application—

- (a) for entry clearance where, if granted in accordance with the immigration rules, the entry clearance would have effect on arrival in the United Kingdom as leave to enter for 6 months or less, or where the leave to enter which may be granted pursuant to that entry clearance would be for 6 months or less if granted in accordance with the immigration rules;
- (b) for entry clearance under Part 2 of the immigration rules;
- (c) for entry clearance or leave to remain under paragraphs 245G to 245GE of the immigration rules (Tier 2 Intra-company Transfer Migrants);
- (d) for leave to remain of any kind made by a child under the age of 18 years where the child is being looked after by a local authority (within the meaning of section 22(1) of the Children Act 1989(a) or section 17(6) of the Children (Scotland) Act 1995(b) or section 74(1) of the Social Services and Well-being (Wales) Act 2014(c) or where the child is being looked after by an authority (within the meaning of article 25(1) of the Children (Northern Ireland) Order 1995(d));
- (e) for leave to remain which relates to a claim for asylum or humanitarian protection to be considered in accordance with Part 11 of the immigration rules;
- (f) for leave to remain which relates to a claim that the person's removal from the United Kingdom would be contrary to the United Kingdom's obligations under article 3 of the Convention (within the meaning of section 21(1) of the Human Rights Act 1998(e));

(a) 1989 c. 41. Section 22(1) has been amended by the Local Government Act 2000 (c. 22), section 107 and Schedule 5, paragraph 19; the Children (Leaving Care) Act 2000 (c. 35), section 2(1) and (2); the Adoption and Children Act 2002 (c. 38), section 116(2).

(b) 1995 c. 36. Section 17(6) has been amended by the Adoption and Children (Scotland) Act 2007 (asp 4), Schedule 2, paragraph 9(4)(b), by the Children's Hearings (Scotland) Act 2011 (asp 1), Schedule 5, paragraph 2(4) and by S.S.I. 2013/211.

(c) 2014 anaw 4.

(d) S.I. 1995/755 (N.I. 2).

(e) 1998 c. 42.

- (g) for leave to remain which relates to the person's identification as a victim of human trafficking in accordance with the United Kingdom's obligations under the Council of Europe Convention on Action against Trafficking in Human Beings(a);
- (h) for leave to remain outside the immigration rules with access to public funds under the Home Office policy known as the "Destitution Domestic Violence Concession" published on 2nd December 2013(b);
- (i) for entry clearance or leave to remain as the dependant of a person who makes an application of a type mentioned in sub-paragraph (c), (e), (f), (g) or (h);
- (j) for entry clearance or leave to remain as the dependant of a member of Her Majesty's forces under the immigration rules;
- (k) for entry clearance or leave to remain as the dependant of a member of a force who is exempt from immigration control under section 8(4)(b) or (c) of the Immigration Act 1971, under the immigration rules;
- (l) for entry clearance or leave to remain where provision for such entry clearance or leave has been made pursuant to an EU obligation (within the meaning of Part 2 of Schedule 1 to the European Communities Act 1972(c)).

2. A person is exempt from paying the charge where the person is a national of—

- (a) Australia; or
- (b) New Zealand.

3. A person is exempt from paying the charge where the person is a British Overseas Territory citizen (within the meaning of section 2(1) of the British Overseas Territories Act 2002(d)) who is resident in the Falkland Islands.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order requires a person who applies for entry clearance for a limited period, or for limited leave to remain in the United Kingdom, to pay an immigration health charge. Article 3 requires the person to pay a separate charge in respect of each application the person makes.

Article 4 makes provision for the amount of the charge to be paid. Schedule 1 sets out the annual amount payable in respect of the specified types of application.

Where a person applies for entry clearance under a paragraph of the immigration rules the person must pay the specified annual amount for each year of the maximum period of leave to enter which could have effect on the person's arrival in the United Kingdom, or be granted pursuant to the entry clearance, if the entry clearance is granted for the maximum period under the immigration rules in relation to that paragraph.

Where a person applies for leave to remain in the United Kingdom under a paragraph of the immigration rules, the person must pay the specified annual amount for each year of the maximum period of leave to remain which could be granted pursuant to the application under the immigration rules in relation to that paragraph.

Where the maximum period of leave to enter or remain would be for less than a year, or includes part of a year, the amount payable for that part is either half of the specified annual amount for a period of up to 6 months, or the specified annual amount if the part of the year is more than 6 months.

(a) Done at Warsaw on 16 May 2005. (b) The policy is published at

<https://www.gov.uk/government/publications/application-for-benefits-for-visa-holder-domestic-violence>. A copy is also available on request from the Home Office.

(c) 1972 c. 68.

(d) 2002 c. 8.

Where the person applies for entry clearance or leave to remain outside the immigration rules then the person must pay the specified annual amount multiplied by 2.5.

Article 5 provides that a person must pay the charge when the person applies for entry clearance or leave. The charge is only paid as required where the person does not cancel or otherwise reclaim the payment after it has been made, and provided the total amount of the charge has not been refunded under article 8 of the Order.

Article 6 sets out the consequences of a failure to pay a charge. The entry clearance officer or the Secretary of State, as applicable, may inform the person of the failure to pay the charge. Where a person applies for entry clearance, the person will have 7 days to pay the outstanding amount or the application must be refused. Where a person applies for leave to remain, the person will have 10 days to pay the outstanding amount or the application must be treated as invalid.

However, if a person applies for entry clearance or leave to remain but, before the application is determined, the person reclaims or otherwise withdraws the payment made, the application will be refused.

Where the person has been granted entry clearance or leave to remain, but reclaims or otherwise withdraws the payment, any entry clearance granted must be revoked, any leave to enter conferred or granted pursuant to the entry clearance must be cancelled, and any leave to remain must be cancelled.

Where a person has been refused entry clearance or leave to remain but that refusal is held to be unlawful by a competent court or tribunal, and the Secretary of State has refunded the amount of the charge under article 8, an entry clearance officer or Secretary of State may inform the person of their failure to pay the charge. The person must then pay within the specified time or the application must be refused.

Article 7 and Schedule 2 to the Order make provision for exemptions from the requirement to pay the immigration health charge.

A person is exempt from the charge if they apply for entry clearance which would have effect as leave to enter the United Kingdom on arrival for 6 months or less, or where leave to enter could only be granted pursuant to the entry clearance for 6 months or less if granted in accordance with the immigration rules.

A person is exempt from the charge if they apply for entry clearance in one of the categories set out in Part 2 of the immigration rules which concern visitors.

Those who apply for entry clearance or leave to remain under the Rules as a Tier 2 Intra-company Migrant Transfer are exempt from paying the charge.

A child who is a looked after child under the Children Act 1989 (or certain other equivalent provisions) is exempt from paying the charge.

A person who makes an application for leave to remain which relates to a claim for asylum, humanitarian protection, or a claim that their removal from the United Kingdom would be contrary to article 3 of the European Convention on Human Rights, does not have to pay the charge.

A person who applies for limited leave under the Home Office concession known as the destitute domestic violence concession is exempt.

A person who applies for leave to remain relating to their identification as a victim of human trafficking is exempt.

A person who applies for entry clearance or leave as a dependant of a person whose application falls under the one of the specified paragraphs is also exempt from the charge.

A dependant of a member of HM forces, or of a member of a force who is exempt from immigration control under section 8(4)(b) and (c) of the Immigration Act 1971, is also exempt from the requirement to pay the charge when applying for entry clearance or leave to remain as a dependant.

Those who apply for entry clearance or leave to remain where the provision for such entry clearance and leave to remain has been made pursuant to an EU obligation are not required to pay the charge.

Nationals of Australia or New Zealand are exempt from paying the charge in line with international agreements between these two States and the United Kingdom for the provision of reciprocal healthcare without charge for their nationals.

A British Overseas Territories citizen who is resident in the Falklands Islands is exempt from paying the charge.