

STATEMENT OF CHANGES IN IMMIGRATION RULES

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

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A copy of this Statement of Changes can be found on the visas and immigration pages of the gov.UK website at www.gov.uk/government/collections/immigration-rules-statement-of-changes

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¹STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the rules laid down by her as to the practice to be followed in the administration of the Immigration Acts for regulating entry into and the stay of persons in the United Kingdom and contained in the statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cm 2663), 26 October 1995 (HC 797), 4 January 1996 (Cm 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cm 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cm 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cm 3953), 8 October 1998 (Cm 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cm 4851), 27 August 2001 (Cm 5253), 16 April 2002 (HC 735), 27 August 2002 (Cm 5597), 7 November 2002 (HC 1301), 26 November 2002 (HC 104), 8 January 2003 (HC 180), 10 February 2003 (HC 389), 31 March 2003 (HC 538), 30 May 2003 (Cm 5829), 24 August 2003 (Cm 5949), 12 November 2003 (HC 1224), 17 December 2003 (HC 95), 12 January 2004 (HC 176), 26 February 2004 (HC 370), 31 March 2004 (HC 464), 29 April 2004 (HC523), 3 August 2004 (Cm 6297), 24 September 2004 (Cm 6339), 18 October 2004 (HC 1112), 20 December 2004 (HC 164), 11 January 2005 (HC 194), 7 February 2005 (HC 302), 22 February 2005 (HC 346), 24 March 2005 (HC 486), 15 June 2005 (HC 104), 12 July 2005 (HC 299), 24 October 2005 (HC 582), 9 November 2005 (HC 645), 21 November 2005 (HC 697), 19 December 2005 (HC 769), 23 January 2006 (HC 819), 1 March 2006 (HC 949), 30 March 2006 (HC 1016), 20 April 2006 (HC 1053), 19 July 2006 (HC 1337), 18 September 2006 (Cm 6918), 7 November 2006 (HC 1702), 11 December 2006 (HC 130), 19 March 2007 (HC 398), 3 April 2007 (Cm 7074), 4 April 2007 (Cm 7075), 7 November 2007 (HC 28), 13 November 2007 (HC 40), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951), 15 July 2008 (HC 971), 4 November 2008 (HC 1113), 9 February 2009 (HC 227), 9 March 2009 (HC 314), 24 April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120), 10 February 2010 (HC 367), 18 March 2010 (HC 439), 28 June 2010 (HC 59), 15 July 2010 (HC 96), 22 July 2010 (HC 382), 19 August 2010 (Cm 7929), 1 October 2010 (Cm 7944), 21 December 2010 (HC 698), 16 March 2011 (HC 863), 31 March 2011 (HC 908), 13 June 2011 (HC 1148), 19 July 2011 (HC 1436), 10 October 2011 (HC 1511), 7 November 2011 (HC 1622), 8 December 2011 (HC 1693), 20 December 2011 (HC 1719), 19 January 2012 (HC 1733), 15 March 2012 (HC 1888), 4 April 2012 (Cm 8337), 13 June 2012 (HC 194), 9 July 2012 (HC 514), 19 July 2012 (Cm 8423), 5 September 2012 (HC 565), 22 November 2012 (HC 760), 12 December 2012 (HC 820), 20 December 2012 (HC 847), 30 January 2013 (HC 943), 7 February 2013 (HC 967), 11 March 2013 (HC 1038), 14 March 2013 (HC 1039), 9 April 2013 (Cm 8599), 10 June 2013 (HC 244), 31 July 2013 (Cm 8690), 6 September 2013 (HC 628), 9 October 2013 (HC 686), 8 November 2013 (HC 803), 9 December 2013 (HC 887), 10 December 2013 (HC 901), 18 December 2013 (HC 938), 10 March 2014 (HC 1130), 13 March 2014 (HC 1138), 1 April 2014 (HC 1201), 10 June 2014 (HC 198), 10 July 2014 (HC 532), 16 October 2014 (HC 693), 26 February 2015 (HC 1025), 16 March 2015 (HC 1116), 13 July 2015 (HC 297) and 17 September 2015 (HC 437).

¹ This Statement of Changes can be viewed at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>

Implementation

The changes to Appendix A set out in paragraph A44 of this statement shall take effect for applications for Certificates of Sponsorship under the Tier 2 (General) limit decided from 19 November 2015.

The changes to the Introduction and Appendix A set out in paragraphs Intro1 and A47 of this statement shall take effect from 19 November 2015. However, if an application has been made for entry clearance or leave to remain before 19 November 2015, the application will be decided in accordance with the Rules in force on 18 November 2015. An application for leave to remain made after 19 November 2015 shall also be decided as if paragraph 6 of the Introduction and paragraph 111(c) of Appendix A of the Rules in force on 18 November remained in force, where that application is made by a person who entered the UK with entry clearance granted under the Rules applying on 18 November 2015 and the certificate of sponsorship records that they are continuing to be sponsored by the same sponsor as they were at the time of the entry clearance application.

The changes to Part 8 and Appendix FM set out in paragraphs 8.1 to 8.2 and FM1 to FM8 of this statement shall take effect from 19 November 2015 and apply to all applications decided on or after that date regardless of the date of application.

The changes to the Introduction, Part 9 and Part 11 set out in paragraphs Intro5 to Intro8, 9.2, and 11.1 to 11.83 shall apply to all decisions made on or after 19 November 2015.

The change to Appendix FM-SE set out in paragraph FM-SE1 of this statement shall take effect from 19 November 2015. However, if an application has been made before 19 November 2015, the application will be decided in accordance with the version of paragraph 27 of Appendix FM-SE in force on 18 November 2015, except where the application was made before 6 November 2015 and the specified English language test relied upon was passed before 6 April 2015, in which case the transitional provisions set out in the fifth paragraph of the Implementation section of HC 1025 (beginning with the words “The changes set out in paragraphs 320 to 321”) continue to apply.

The changes to Appendix KoLL set out in paragraphs KoLL 1 to KoLL 10 of this statement shall take effect from 19 November 2015. However, if an application has been made before 19 November 2015, the application will be decided in accordance with Appendix KoLL in force on 18 November 2015, except where the application was made before 6 November 2015 and the specified English language test relied upon was passed before 6 April 2015, in which case the transitional provisions set out in the fifth paragraph of the Implementation section of HC 1025 (beginning with the words “The changes set out in paragraphs 320 to 321”) continue to apply.

The changes set out in paragraph G1 shall take effect from 1 January 2016.

The change to the Introduction set out in paragraph Intro9 of this statement will apply to applications made on or after 19 May 2016.

The other changes set out in this statement shall take effect from 19 November 2015. However, if an application has been made for entry clearance or leave to enter or remain before 19 November 2015, the application will be decided in accordance with the Rules in force on 18 November 2015.

Review

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

The report must in particular:

- (a) consider each of the Relevant Rules and whether or not each Relevant Rule achieves its objectives and is still appropriate; and
- (b) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.

“Review period” means:

- (a) the period of five years beginning on 6 April 2012; and
- (b) subject to the paragraph below, each successive period of five years.

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

“Relevant Rule” means an Immigration Rule which:

- (a) imposes requirements, restrictions or conditions, or sets standards, in relation to any activity carried on by a business or voluntary or community body; or
- (b) relates to the securing of compliance with, or the enforcement of, requirements, restrictions, conditions or standards which relate to any activity carried on by a business or voluntary or community body.”

Changes to the Introduction

Intro1. In paragraph 6, after the definition of a “settled worker”, insert:

“In Appendix A of these Rules, “voluntary fieldwork” means activities which would not normally be offered at a waged or salaried rate and which contribute directly to the achievement or advancement of the sponsor’s charitable purpose. It does not include work ancillary to the sponsor’s charitable purpose including, for example, routine back office administrative roles, retail or other sales roles, fund-raising roles and roles involved in the maintenance of the sponsor’s offices and other assets.”

Intro2. In paragraph 6, in the definition of “Training Programme”, delete “paragraph 245ZQ(b)(vi)(2) to(4)” and substitute “paragraph 245ZQ(b)(vi)(1) to (3)(a)”.

Intro3. In paragraph 6, delete the definition of “Amateur” and substitute:

An "**Amateur**" is a person who engages in a sport or creative activity solely for personal enjoyment and who is not seeking to derive a living from the activity. This also includes a person playing or coaching in a charity game.

Intro4. In paragraph 6, after the definition of an “Amateur”, insert:

A “**Professional Sportsperson**”, is someone, whether paid or unpaid, who :

- is providing services as a sportsperson, playing or coaching in any capacity, at a professional or semi-professional level of sport; or
- being a person who currently derives, who has in the past derived or seeks in the future to derive, a living from playing or coaching, is providing services as a sportsperson or coach at any level of sport, unless they are doing so as an “Amateur”.

Intro5. In paragraph 6 insert, ““**application for asylum**” has the meaning given in paragraph 327 of these Rules”.

Intro6. In paragraph 6 insert, ““**refugee status**” is the recognition by the UK, following consideration of an **application for asylum**, that a person meets the criteria in paragraph 334.”

Intro7. In paragraph 6 after ““**refugee leave**” means limited leave granted pursuant to paragraph 334 or 335 of these rules and has not been revoked pursuant to paragraph 338A”, insert “to 339AC.”

Intro8. In paragraph 6 after ““**humanitarian protection**” means limited leave granted pursuant to paragraph 339C of these rules and has not been revoked pursuant to paragraph 339G”, delete “or ” and insert “to”.

Intro9. In paragraph 6 in the definition of ““**present and settled**” or “**present and settled in the UK**”” for:

“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.” substitute:

“For the purposes of an application under Appendix FM, or as a fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, child, parent or adult dependent relative under Part 8, an EEA national with an EEA right to reside in the UK permanently must hold a valid residence permit issued under the Immigration (European Economic Area) Regulations 2000 which has been endorsed under the Immigration Rules to show permission to remain in the UK indefinitely, or a valid document certifying

permanent residence issued under the Immigration (European Economic Area) Regulations 2006, in order to be regarded as present and settled in the UK.

For the purposes of an application under Appendix FM, or as a fiancé(e), proposed civil partner, spouse, civil partner, unmarried partner, same sex partner, child, parent or adult dependent relative under Part 8, a non-EEA national with an EEA right to reside in the UK permanently must hold a valid residence document issued under the Immigration (European Economic Area) Regulations 2000 which has been endorsed under the Immigration Rules to show permission to remain in the UK indefinitely, or a valid permanent residence card issued under the Immigration (European Economic Area) Regulations 2006, in order to be regarded as present and settled in the UK.”.

Changes to Part 1

1.1 For paragraph 19A, substitute:

“Sub paragraphs (ii) and (iii) of paragraph 18 shall not apply where a person who has indefinite leave to enter or remain in the United Kingdom accompanies on an overseas posting, a spouse, civil partner, unmarried partner or same-sex partner who is:

- a) a member of HM Forces serving overseas; or
- b) a British citizen or is settled in the UK and
 - (i) a permanent member of HM Diplomatic Service;
 - (ii) a comparable United Kingdom based staff member of the British Council;
 - (iii) a staff member of the Department for International Development;
or
 - (iv) a Home Office employee.”

1.2 For paragraph 39C(b) to (d) substitute:

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

(c) Where sub-paragraph (b) applies, the decision-maker may give the applicant a further opportunity to demonstrate sufficient knowledge of the English language and about life in the United Kingdom in accordance with paragraph 3.2 or 3.3 of Appendix KoLL.

d) A decision-maker may decide not to give the applicant a further opportunity under sub-paragraph (c) where the decision-maker does not anticipate that the supply of further 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.”

Changes to Part 5

5.1 Delete paragraph 144(iii) and substitute:

“(iii) where entry is sought under (ii)(a), the person:

- (a) will be the sole representative of the employer present in the United Kingdom under the terms of this paragraph;
- (b) intends to be employed full time as a representative of that overseas business;
- (c) is not a majority shareholder in that overseas business;
- (d) must supply from his employer:
 - (1) a full description of the company’s activities, including details of the company’s assets and accounts and the company share distribution for the previous year;
 - (2) a letter which confirms the overseas company will establish a wholly-owned subsidiary or register a branch in the UK in the same business activity as the parent company;
 - (3) a job description, salary details and contract of employment for the applicant;
 - (4) a letter confirming the applicant is fully familiar with the company’s activities and has full powers to negotiate and take operational decisions without reference to the parent company; and
 - (5) a notarised statement which confirms the applicant will be their sole representative in the UK; the company has no other branch, subsidiary or representative in the UK; its operations will remain centred overseas; and the applicant will not engage in business of their own nor represent any other company’s interest;”

5.2 In 144(vi)(b)(1), after “the standard described above”, insert “in speaking and listening”.

5.3 Delete paragraph 147(ii)-(iii) and substitute:

- (ii) the person was admitted in accordance with paragraph 144(ii)(a) and can show:
 - (a) that the overseas business still has its headquarters and principal place of business outside the United Kingdom; and
 - (b) that he is employed full time as a representative of that overseas business and has established and is in charge of its registered branch or wholly owned subsidiary;
 - (c) that he is still required for the employment in question, as certified by his employer;
 - (d) that he is in receipt of a salary from his employer, by providing evidence of the salary paid in the previous 12 months and the constitution of the remuneration package (for example, whether the salary was basic or commission and the number of hours worked);
 - (e) evidence he has generated business, principally with firms in the UK, on behalf of his employer since his last grant of leave. The evidence must be in the form of accounts, copies of invoices or letters from firms who the applicant has done business with, including the value of transactions; and
 - (f) a Companies House certificate of registration as a UK establishment (for a branch), and a certificate of incorporation (for a subsidiary) with either a copy of the share register or a letter from the company's accountants confirming that all shares are held by the parent company;
- (iii) the person was admitted in accordance with paragraph 144(ii)(b) and can show that:
 - (a) he is still engaged in the employment for which the entry clearance was granted;
 - (b) he is still required for the employment in question, as certified by his employer; and
 - (c) he is in receipt of a salary from his employer, by providing evidence of the salary paid in the previous 12 months and the constitution of the remuneration package (for example, whether the salary was basic or commission and the number of hours worked);”

Changes to Part 6A

- 6A.1 In Part 6A paragraph 245D(c)(ii)(3), delete "investing in other businesses, and" and replace with "investing in businesses, other than those which the applicant is running as self-employed or as a director, and".
- 6A.2 At the end of 245DB(f)(iii) substitute "." with ";".
- 6A.3 After 245DB(f)(iii) insert:
- “(iv) if the applicant is relying on one or more previous investments to score points, they have genuinely invested all or part of the investment funds required in Table 4 of Appendix A into one or more genuine businesses in the UK;”.
- 6A.4 Renumber 245 DB (f)(iv) as 245 DB (f)(v).
- 6A.5 At the end of the new 245DB(f)(v) substitute “;” with “.”.
- 6A.6 At the end of 245DD(h)(iii) substitute "." with ";".
- 6A.7 After paragraph 245DD(h)(iii) insert:
- “(iv) if the applicant is relying on one or more previous investments to score points, they have genuinely invested all or part of the investment funds required in Table 4 of Appendix A into one or more genuine businesses in the UK;”.
- 6A.8 Renumber 245DD(h)(iv) as 245DD (h)(v).
- 6A.9 In paragraph 245GC, delete sub-paragraphs (a) to (c) and substitute:
- “(a) Entry clearance will be granted with effect from:
- (i) 14 days before the start date of the applicant’s employment in the UK, as recorded by the Certificate of Sponsorship Checking Service,
 - (ii) 7 days before the intended date of travel recorded by the applicant either through the relevant online application process or in the specified application form, providing this is not more than 14 days after the start date of the applicant’s employment in the UK, as recorded by the Certificate of Sponsorship Checking Service, or
 - (iii) the date entry clearance is granted,
- whichever is the latest.
- (b) Entry clearance will be granted for a period ending:

- (i) 14 days after the end date of the applicant’s employment in the UK, as recorded by the Certificate of Sponsorship Checking Service, or
- (ii) at the end of the maximum time available for the Tier 2 (Intra-Company Transfer) subcategory, as set out in (c), from the date entry clearance was granted.

whichever is the earlier.

(c) The maximum time referred to in (b)(ii) is:

- (i) 6 months, if the applicant is applying in the Skills Transfer subcategory,
- (ii) 12 months, if the applicant is applying in either of the Graduate Trainee or Short Term Staff sub-categories, or
- (iii) 5 years and 1 month, if the applicant is applying in the Long Term Staff sub-category.”

6A.10 In paragraph 245GF(e)(ii)(2), delete “maternity, paternity or adoption leave” and substitute “maternity, paternity, shared parental or adoption leave”.

6A.11 In paragraph 245GF-SD C., delete “maternity, paternity or adoption leave” and substitute “maternity, paternity, shared parental or adoption leave”.

6A.12 In paragraph 245HC, delete sub-paragraphs (a) to (c) and substitute:

“(a) Entry clearance will be granted with effect from:

- (i) 14 days before the start date of the applicant’s employment in the UK, as recorded by the Certificate of Sponsorship Checking Service,
- (ii) 7 days before the intended date of travel recorded by the applicant either through the relevant online application process or in the specified application form, providing this is not more than 14 days after the start date of the applicant’s employment in the UK, as recorded by the Certificate of Sponsorship Checking Service, or
- (iii) the date entry clearance is granted,

whichever is the latest.

(b) Entry clearance will be granted for a period ending:

- (i) 14 days after the end date of the applicant's employment in the UK, as recorded by the Certificate of Sponsorship Checking Service, or
- (ii) at the end of the maximum time available for the applicable Tier 2 (General), Tier 2 (Minister of Religion) or Tier 2 (Sportsperson) category, as set out in (c), from the date entry clearance was granted.

whichever is the earlier.

- (c) The maximum time referred to in (b)(ii) is:
 - (i) 5 years and 1 month, if the applicant is applying as a Tier 2 (General) Migrant; or
 - (ii) 3 years and 1 month, if the applicant is applying as a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant.”

6A.13 Delete paragraph 245HC(c)(iii)(4) and substitute:

“(4) if the applicant is applying as a Tier 2 (Sportsperson) Migrant, employment as a sportsperson for his national team while his national team is in the UK, playing in British University and College Sport (BUCS) competitions and Temporary Engagement as a Sports Broadcaster, and”.

6A.14 Delete paragraph 245HD(d)(v).

6A.15 Delete paragraph 245HE(d)(iii)(5) and substitute:

“(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, playing in British University and College Sport (BUCS) competitions and Temporary Engagement as a Sports Broadcaster, and”.

6A.16 Delete paragraph 245HF and substitute:

“245HF. Requirements for indefinite leave to remain as a Tier 2 (General) Migrant or Tier 2 (Sportsperson) Migrant

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have spent a continuous period of 5 years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 2 (General) Migrant or Tier 2 (Sportsperson) Migrant, in any combination of the following categories:
 - (i) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant or a Tier 1 (Graduate Entrepreneur) Migrant,
 - (ii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant,
 - (iii) as a Tier 2 (Intra-Company Transfer) Migrant, provided the continuous period of 5 years spent lawfully in the UK includes a period of leave as:
 - (1) a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or
 - (2) a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an Intra-Company Transfer,
 - (iv) as a Representative of an Overseas Business,
 - (v) as a Highly Skilled Migrant,
 - (vi) as an innovator,
 - (vii) as a Qualifying Work Permit Holder,
 - (viii) as a Member of the Operational Ground Staff of an Overseas-owned Airline,
 - (ix) as a Minister of Religion, Missionary or Member of a Religious Order, or
 - (x) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation.
- (c) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must:
 - (i) still hold a Tier 2 Sponsor licence in the relevant category, or have an application for a renewal of such a licence currently under consideration by the Home Office; and
 - (ii) certify in writing:

- (1) that he still requires the applicant for the employment in question for the foreseeable future,
 - (2) the gross annual salary paid by the Sponsor, and that this salary will be paid for the foreseeable future,
 - (3) if the applicant is currently on maternity, paternity, shared parental or adoption leave, the date that leave started, confirmation of what the applicant's salary was immediately before the leave, and what it will be on the applicant's return, and
 - (4) if the applicant is paid hourly, the number of hours per week the salary in (2) or (3) is based on.
- (d) The pay in (c)(ii)(2) or (3) above must:
- (i) be basic pay (excluding overtime);
 - (ii) only include allowances where they are part of the guaranteed salary package and would be paid to a local settled worker in similar circumstances;
 - (iii) not include 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);
 - (iv) not include the value of any shares the applicant has received as an employee-owner in exchange for some of his UK employment rights;
 - (v) be at least equal to the appropriate rate for the job as stated in the Codes of Practice in Appendix J; and
 - (vi) be at least:
 - (1) £35,000 if the date of application is on or after 6 April 2016,
 - (2) £35,500 if the date of application is on or after 6 April 2018,
 - (3) £35,800 if the date of application is on or after 6 April 2019,
 - (4) £36,200 if the date of application is on or after 6 April 2020,

subject to (e), (f) and (g) below.

- (e) Sub-paragraph (d)(vi) above does not apply if the continuous 5-year period in (b) includes a period of leave as:
 - (i) a Qualifying Work Permit Holder, or
 - (ii) a Tier 2 Migrant, where the Certificate of Sponsorship which led to that grant of leave was assigned to the applicant by his Sponsor before 6 April 2011,
- (f) Sub-paragraph (d)(vi) above does not apply if the Certificate of Sponsorship which led to the applicant's most recent grant of leave was for a job which:
 - (i) appears on the list of PhD-level occupation codes as stated in the codes of practice in Appendix J,
 - (ii) appears on the Shortage Occupation List in Appendix K,
 - (iii) previously appeared on the Shortage Occupation List, as shown by Tables 3 and 4 in Appendix K, at any time when the applicant:
 - (1) had leave as a Tier 2 (General) Migrant, in which he was sponsored for the applicable job, either with the same or a different employer, during the continuous 6-year period ending on the date of application for indefinite leave to remain, or
 - (2) was assigned a Certificate of Sponsorship for that job, either with the same or a different employer, which led to a grant of leave as a Tier 2 (General) Migrant during the continuous 6-year period ending on the date of application for indefinite leave to remain.
- (g) Where the applicant is paid hourly, only earnings up to a maximum of 48 hours a week will be considered in (d)(vi) above, even if the applicant works for longer than this. For example, an applicant who works 60 hours a week for £12 per hour will be considered to have a salary of £29,952 (12x48x52) and not £37,440 (12x60x52), and will therefore not meet the requirement in (d)(vi).
- (h) The applicant must provide the specified documents in paragraph 245HH as evidence of the salary in (c)(ii)(2) or (3) above and the reasons for the absences set out in paragraph 245AAA.
- (i) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL.

- (j) 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.
- (k) For the purposes of (b), time spent with valid leave in the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man in a category equivalent to any of the categories set out in (b)(i) to (x), may be included in the continuous period of 5 years lawful residence, provided that:
 - (i) any such leave as a work permit holder or as a Tier 2 Migrant was for employment:
 - (1) in a job which appears on the list of occupations skilled to National Qualifications Framework level 3 or above (or from 6 April 2011, National Qualifications Framework level 4 or above or from 14 June 2012, National Qualifications Framework level 6 or above), as stated in the Codes of Practice in Appendix J, or
 - (2) in a job which appears in the Creative Sector Codes of Practice in Appendix J, or
 - (3) as a professional sportsperson (including as a sports coach); and
 - (ii) the most recent period of leave was granted in the UK as a Tier 2 (General) Migrant or Tier 2 (Sportsperson) Migrant.

In any such case, references to the "UK" in paragraph 245AAA shall include a reference to the Bailiwick of Guernsey, Bailiwick of Jersey or the Isle of Man, as the case may be.

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

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have spent a continuous period of 5 years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 2 (Minister of Religion) Migrant, in any combination of the following categories:

- (i) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant or a Tier 1 (Graduate Entrepreneur) Migrant,
 - (ii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant,
 - (iii) as a Tier 2 (Intra-Company Transfer) Migrant, provided the continuous period of 5 years spent lawfully in the UK includes a period of leave as:
 - (1) a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or
 - (2) a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an Intra-Company Transfer,
 - (iv) as a Representative of an Overseas Business,
 - (v) as a Highly Skilled Migrant,
 - (vi) as an innovator,
 - (vii) as a Qualifying Work Permit Holder,
 - (viii) as a Member of the Operational Ground Staff of an Overseas-owned Airline,
 - (ix) as a Minister of Religion, Missionary or Member of a Religious Order, or
 - (x) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation.
- (c) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must:
- (i) still hold a Tier 2 Sponsor licence in the relevant category, or have an application for a renewal of such a licence currently under consideration by the Home Office; and
 - (ii) certify in writing that he still requires the applicant for the employment in question for the foreseeable future.
- (d) The applicant must provide the specified documents in paragraph 245HH as evidence of the reasons for the absences set out in paragraph 245AAA.

- (e) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with Appendix KoLL.
- (f) 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.
- (g) For the purposes of (b), time spent with valid leave in the Bailiwick of Guernsey, the Bailiwick of Jersey or the Isle of Man in a category equivalent to any of the categories set out in (b)(i) to (x), may be included in the continuous period of 5 years lawful residence, provided that the most recent period of leave was granted in the UK as a Tier 2 (Minister of Religion) Migrant.

In any such case, references to the "UK" in paragraph 245AAA shall include a reference to the Bailiwick of Guernsey, Bailiwick of Jersey or the Isle of Man, as the case may be."

6A.17 Renumber paragraph 245HF-SD as 245HH, and in the renumbered paragraph:

- (i) Delete the reference to "paragraph 245HF(e)" and substitute "paragraphs 245HF(h) and 245GF(d)".
- (ii) In sub-paragraph A.(b)(iii)(6), delete the reference to "245HF-SD A.(a)" and substitute "245HH A.(a)".
- (iii) In sub-paragraph A.(c)(i)(5), delete the reference to "245HF-SD A.(a)" and substitute "245HH A.(a)".
- (iv) In sub-paragraph C., delete "maternity, paternity or adoption leave" and substitute "maternity, paternity, shared parental or adoption leave".

6A.18 Delete paragraph 245ZP(f)(iii)(4) and substitute:

"(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 sportsperson for his national team while his national team is in the UK, playing in British University and College Sport (BUCS) competitions and Temporary Engagement as a Sports Broadcaster."

6A.19 Delete paragraph 245ZR(h)(iii)(4) and substitute:

"(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 sportsperson for his national team while his national team is in the UK, playing in British University and

College Sport (BUCS) competitions and Temporary Engagement as a Sports Broadcaster.”

Changes to Part 8

- 8.1 In paragraph A280(b), in the table, in the entry for paragraphs 297-300 in the column headed “Additional requirement”, for “None” substitute: “Where the applicant falls under paragraph 297, the applicant must not fall for refusal under paragraph S-EC.1.9. of Appendix FM in respect of a parent of the applicant. For these purposes, “a parent of the applicant” is to be construed as including “a relative of the applicant” under paragraph 297.”.
- 8.2 In paragraph A280(b), in the table, in the entry for paragraphs 304-309 in the column headed “Additional requirement”, for “None” substitute: “Where the applicant falls under paragraph 305, the applicant must not fall for refusal under paragraph S-EC.1.9. of Appendix FM in respect of a parent of the applicant.”.
- 8.3 In paragraph 319I(b)(iii)(2) delete “.” and substitute “, and”.
- 8.4 After paragraph 319I(b)(iii) insert “(iv) no employment as a professional sportsperson (including as a sports coach).”

Changes to Part 9

- 9.1 Delete paragraph 323AA(a) and substitute:
- “(a) The migrant is absent from work without pay for four weeks or more in total, according to his/her normal working pattern (whether over a single period or more than one period), during any calendar year (1 January to 31 December), unless the absence from work is due solely to:
- (i) maternity leave,
 - (ii) paternity leave,
 - (iii) shared parental leave,
 - (iv) adoption leave, or
 - (v) long term sick leave of one calendar month or more during any one period.”
- 9.2 In paragraph 323(iv), after “on any of the grounds set out in paragraph”, insert “s”. After 339A, replace “(i)-(vi)” with “-339AC”. After “and paragraph”, insert “s”. After “339G”, insert ‘A’ and replace ‘(i)-(vi)’ with ‘-339GD’.

Changes to Part 10

- 10.1 In paragraph 326(2)(vi) delete “parent of a child at school” and substitute “parent of a Tier 4 (child) student”.

Changes to Part 11

- 11.1. In paragraph 326A after “consideration of”, insert “admissible applications for”.
- 11.2. In paragraph 326B after, “(family life)”, delete “which are relevant to those elements”.
- 11.3. In paragraph 326B after, “(private life) of these Rules”, insert “which are relevant to those elements”.
- 11.4. After paragraph 326B insert:

“Definition of EU asylum applicant

326C. Under this Part an EU asylum applicant is a national of a Member State of the European Union who either;

- (a) makes a request to be recognised a refugee under the Geneva Convention on the basis that it would be contrary to the United Kingdom’s obligations under the Geneva Convention for him to be removed from or required to leave the United Kingdom, or
- (b) otherwise makes a request for international protection. “EU asylum application” shall be construed accordingly.

326D. ‘Member State’ has the same meaning as in Schedule 1 to the European Communities Act 1972”.

Inadmissibility of EU asylum applications

326E. An EU asylum application will be declared inadmissible and will not be considered unless the requirement in paragraph 326F is met.

326F. An EU asylum application will only be admissible if the applicant satisfies the Secretary of State that there are exceptional circumstances which require the application to be admitted for full consideration. Exceptional circumstances may include in particular :

- (a) the Member State of which the applicant is a national has derogated from the European Convention on Human Rights in accordance with Article 15 of that Convention;
- (b) the procedure detailed in Article 7(1) of the Treaty on European Union has been initiated, and the Council or, where appropriate, the European Council, has yet to make a decision as required in respect of the Member State of which the applicant is a national; or
- (c) the Council has adopted a decision in accordance with Article 7(1) of the Treaty on European Union in respect of the Member State of which

the applicant is a national, or the European Council has adopted a decision in accordance with Article 7(2) of that Treaty in respect of the Member State of which the applicant is a national.”

- 11.5. In paragraph 330, after “If the Secretary of State decides to grant”, delete “asylum” and insert “refugee status”.
- 11.6. In paragraph 332, after “If a person who has been refused leave to enter”, delete “applies” and insert “makes an application”.
- 11.7. Before paragraph 334 amend the title. After “Grant of”, delete “asylum” and insert “refugee status”.
- 11.8. In paragraph 334, after “An asylum applicant will be granted”, delete “asylum” and insert “refugee status”.
- 11.9. In paragraph 334(iv), delete “he does not”.
- 11.10. In paragraph 335, after “If the Secretary of State decides to grant”, delete “asylum” and insert “refugee status”. After “to a person who has”, insert “previously”.
- 11.11. Before paragraph 339A amend the title. After “Revocation or refusal to renew”, delete “a grant of asylum” and insert “refugee status”.
- 11.12. After the title ‘Revocation or refusal to renew refugee status’, insert, “338A. A person's grant of refugee status under paragraph 334 shall be revoked or not renewed if any of paragraphs 339A to 339AB apply. A person’s grant of refugee status under paragraph 334 may be revoked or not renewed if paragraph 339AC applies.
- 11.13. Before paragraph 339A, insert “Refugee Convention ceases to apply (cessation)” as a title.
- 11.14. In paragraph 339A, delete “A person's grant of asylum under paragraph 334 will be revoked or not renewed if the Secretary of State is satisfied that:” and insert, “This paragraph applies when the Secretary of State is satisfied that one or more of the following applies:”.
- 11.15. In paragraph 339A(ii), after “ having lost his nationality, he has voluntarily re-acquired it;” delete ‘or’.
- 11.16. In paragraph 339A(v), after “he can no longer, because the circumstances in connection with which he has been recognised as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of nationality;” insert ‘or’.
- 11.17. In paragraph 339A(vi), after “being a stateless person with no nationality, he is able, because the circumstances in connection with which he has been

recognised a refugee have ceased to exist, to return to the country of former habitual residence”, delete “;”.

11.18. In paragraph 339A, delete “Where an application for asylum was made on or after the 21st October 2004, the Secretary of State will revoke or refuse to renew a person's grant of asylum where he is satisfied that at least one of the provisions in sub-paragraph (i)-(vi) apply.

11.19. In paragraph 339A, delete the sub-paragraphs “(vii) he should have been or is excluded from being a refugee in accordance with regulation 7 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006;

(viii) his misrepresentation or omission or facts, including the use of false documents, were decisive for the grant of asylum;

(ix) there are reasonable grounds for regarding him as a danger to the security of the United Kingdom; or

(x) having been convicted by a final judgment of a particularly serious crime he constitutes danger to the community of the United Kingdom.

11.20. After paragraph 339A, insert “**Exclusion from the Refugee Convention**” as a title.

11.21. After the title “**Exclusion from the Refugee Convention**”, insert, “339AA. This paragraph applies where the Secretary of State is satisfied that the person should have been or is excluded from being a refugee in accordance with regulation 7 of The Refugee or Person in Need of International Protection (Qualification) Regulations 2006.

As regards the application of Article 1F of the Refugee Convention, this paragraph also applies where the Secretary of State is satisfied that the person has instigated or otherwise participated in the crimes or acts mentioned therein.”

11.22. After paragraph 339AA, insert “**Misrepresentation**” as a title.

11.23. After the title “**Misrepresentation**”, insert, “339AB. This paragraph applies where the Secretary of State is satisfied that the person’s misrepresentation or omission of facts, including the use of false documents, were decisive for the grant of refugee status.

11.24. After paragraph 339AB, insert “**Danger to the United Kingdom**” as a title.

11.25. After the title “**Danger to the United Kingdom**”, insert, “339AC. This paragraph applies where the Secretary of State is satisfied that:
(i) there are reasonable grounds for regarding the person as a danger to the security of the United Kingdom; or

- (ii) having been convicted by a final judgment of a particularly serious crime, the person constitutes a danger to the community of the United Kingdom.
- 11.26. In paragraph 339B, after “ 339B. When a person’s”, delete, “grant of asylum” and insert “refugee status”. After “is revoked or not renewed any limited”, insert “or indefinite”. After “leave which they have may be curtailed”, insert “or cancelled.”
- 11.27. In paragraph 339BA, after “Where the Secretary of State is considering revoking refugee status in accordance with these Rules, the”, insert “following procedure will apply. The”
- 11.28. In paragraph 339BA, after “If there is a personal interview, it shall be subject to the safeguards set out in these Rules.” Delete, “However, where a person acquires British citizenship status, his refugee status is automatically revoked in accordance with paragraph 339A (iii) upon acquisition of that status without the need to follow the procedure set out above”.
- 11.29. In paragraph 339BA, after “If there is a personal interview, it shall be subject to the safeguards set out in these Rules.” insert, “339BB. The procedure in paragraph 339BA is subject to the following exceptions:
(i) where a person acquires British citizenship status, his refugee status is automatically revoked in accordance with paragraph 339A (iii) upon acquisition of that status without the need to follow the procedure.
- 11.30. In paragraph 339BB, after “upon acquisition of that status without the need to follow the procedure”, insert, “(ii) where refugee status is revoked under paragraph 339A, or if the person has unequivocally renounced his recognition as a refugee, his refugee status may be considered to have lapsed by law without the need to follow the procedure.”
- 11.31. In paragraph 339BB, after “his refugee status may be considered to have lapsed by law without the need to follow the procedure.” insert, “339BC. If the person leaves the UK, the procedure set out in paragraph 339BA may be initiated, and completed, while the person is outside the UK.”
- 11.32. Replace paragraph 339G with:
- “339G. A person's humanitarian protection granted under paragraph 339C shall be revoked or not renewed if any of paragraphs 339GA to 339GC apply. A person’s humanitarian protection granted under paragraph 339C may be revoked or not renewed if paragraph 339GD applies.

Cessation

339GA. This paragraph applies where the Secretary of State is satisfied that the circumstances which led to the grant of humanitarian protection have

ceased to exist or have changed to such a degree that such protection is no longer required.

In applying this paragraph the Secretary of State shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the person no longer faces a real risk of serious harm.

Exclusion

339GB. This paragraph applies where the Secretary of State is satisfied that:

(i) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he has committed a crime against peace, a war crime, a crime against humanity, or any other serious crime or instigated or otherwise participated in such crimes;

(ii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he is guilty of acts contrary to the purposes and principles of the United Nations or has committed, prepared or instigated such acts or encouraged or induced others to commit, prepare or instigate such acts; or

(iii) the person granted humanitarian protection should have been or is excluded from humanitarian protection because there are serious reasons for considering that he constitutes a danger to the community or to the security of the United Kingdom.

339GC. This paragraph applies where the Secretary of State is satisfied that the person granted humanitarian protection should have been or is excluded from humanitarian protection because prior to his admission to the United Kingdom the person committed a crime outside the scope of paragraph 339GB (i) and (ii) that would be punishable by imprisonment had it been committed in the United Kingdom and the person left his country of origin solely in order to avoid sanctions resulting from the crime.

Misrepresentation

339GD. This paragraph applies where the Secretary of State is satisfied that the person granted humanitarian protection misrepresented or omitted facts, including the use of false documents, which were decisive to the grant of humanitarian protection.”

11.33. In paragraph 339H, after “is revoked or not renewed any limited”, insert, “or indefinite”.

11.34. In paragraph 339H, after “leave which they have may be curtailed”, insert, “or cancelled.”

11.35. In paragraph 339NA (vi), after “result in his removal;” delete “and”.

- 11.36. In paragraph 339NA (vii), after “circumstances beyond his control;” insert “or”.
- 11.37. In paragraph 339NA, insert “(viii) the applicant is an EU national whose claim the Secretary of State has nevertheless decided to consider substantively in accordance with paragraph 326F above.”.
- 11.38. In paragraph 339O(i), after “(a) a grant of”, delete, “asylum” and insert “refugee status”.
- 11.39. In paragraph 339Q(i), after “The Secretary of State will issue to a person granted”, delete “asylum” and insert “refugee status”.
- 11.40. In paragraph 339Q(i), after “as soon as possible after the grant of”, delete “asylum” and insert “refugee status”.
- 11.41. In paragraph 339Q(iii), after “to a family member of a person granted”, delete, “asylum” and insert, “refugee status”.
- 11.42. In paragraph 339Q(iv), after “The Secretary of State may revoke or refuse to renew a person's UKRP where their grant of”, delete “asylum” and insert, “refugee status”.
- 11.43. In the heading before paragraph 339R, after “Requirements for indefinite leave to remain for persons granted”, delete “asylum” and insert, “refugee status”.
- 11.44. In paragraph 339R, after “The requirements for indefinite leave to remain for a person granted”, delete, “asylum” and insert “refugee status”.
- 11.45. In the heading before paragraph 339S, after “Indefinite leave to remain for a person granted”, delete “asylum” and insert, “refugee status”.
- 11.46. In paragraph 339S, after, “Indefinite leave to remain for a person granted”, delete “asylum” and insert, “refugee status”.
- 11.47. In the heading before paragraph 339T, after “Refusal of indefinite leave to remain for a person granted”, delete “asylum” and insert, “refugee status”.
- 11.48. In paragraph 339T(i), after, “Indefinite leave to remain for a person granted”, delete “asylum” and insert, “refugee status”.
- 11.49. In paragraph 344A(i), after ”will issue to a person granted”, delete, “asylum” and insert, “refugee status”.
- 11.50. In paragraph 344(ii), after “the Secretary of State will issue”, delete, “travel documents”.
- 11.51. In paragraph 344(ii), after “to a person granted humanitarian protection in the United Kingdom”, insert, “and their family members a travel document,”.

- 11.52. After paragraph 344(iii), insert, “(iv) For the purposes of paragraph 344A, a ‘family member’ refers only to a person who has been treated as a dependant under paragraph 349 of these Rules or a person who has been granted leave to enter or remain in accordance with paragraphs 352A-352FJ of these Rules.”.
- 11.53. In paragraph 344B, after “a person granted”, delete “asylum” and insert, “refugee status”.
- 11.54. In paragraph 344C, after “A person who is granted”, delete “asylum” and insert, “refugee status”.
- 11.55. In paragraph 344C, after “will provide the information as soon as possible after the grant of”, delete “asylum” and insert, “refugee status”.
- 11.56. In paragraph 349, after, “If the principal applicant is granted”, delete “asylum” and insert, “refugee status”.
- 11.57. In paragraph 352ZC(b), after, “the applicant must have applied for asylum and been ”, delete “refused Refugee Leave and” and insert, “granted neither refugee status nor”.
- 11.58. In paragraph 352ZC(d), after, “the applicant must not be excluded from”, delete “a grant of asylum” and insert, “being a refugee”.
- 11.59. In paragraph 352A(i), after, ” the applicant is married to or the civil partner of a person who”, delete, “is currently a refugee granted status as such under the immigration rules in the United Kingdom” and insert, “has been granted refugee status”.
- 11.60. In paragraph 352A(ii), after, ” the person granted”, delete “asylum” and insert “refugee status”.
- 11.61. In paragraph 352AA, after, ”the same-sex partner of a”, insert, “person granted”. After “refugee”, insert, “status”.
- 11.62. In paragraph 352AA(i), after “same-sex partner of a person who”, delete. “is currently a” and insert, “has been granted”. After, “has been granted refugee”, delete “granted”. After “status”, delete, “as such under the immigration rules”. After “in the United Kingdom”, delete, “and was granted that status in the UK”.
- 11.63. In paragraph 352AA(iii), after “the relationship existed before the person granted”, delete, “asylum” and insert, “refugee status”.
- 11.64. In paragraph 352B, after “Limited leave to enter the United Kingdom as the spouse civil partner of a”, insert, “ person who has been granted”. After “refugee”, insert, ”status”. After, “Limited leave to remain in the United Kingdom as the spouse of a”, insert, ”person who has been granted”. After “refugee”, insert, “ status”.

- 11.65. In paragraph 352BA, after “Limited leave to enter the United Kingdom as the unmarried or same-sex partner of a”, insert, “person who has been granted”. After, “refugee”, insert, “status”.
- 11.66. In paragraph 352C, after “Limited leave to enter the United Kingdom as the spouse civil-partner of a”, insert, “person who has been granted”. After, “refugee”, insert, “status”.
- 11.67. In paragraph 352CA, after “Limited leave to enter the United Kingdom as the unmarried or same-sex partner of a”, insert, “person who has been granted”. After, “refugee”, insert, “status”.
- 11.68. In paragraph 352D, after, “in order to join or remain with the parent who”, delete, “is currently a refugee granted status as such under the immigration rules in the United Kingdom” and insert, “has been granted refugee status”.
- 11.69. In paragraph 352E, after, “Limited leave to enter the United Kingdom as the child of a”, insert, “person who has been granted”. After, “refugee”, insert, “status”.
- 11.70. In paragraph 352F, after, “Limited leave to enter the United Kingdom as the child of a”, insert, “person who has been granted”. After, “refugee”, insert “status”.
- 11.71. In paragraph 352FA, after, “The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the spouse or civil partner of a person who”, delete, “is currently a beneficiary of” and insert, “has been granted”.
- 11.72. In paragraph 352FA, after, “who has been granted humanitarian protraction”, delete, “granted under the immigration rules in the United Kingdom”.
- 11.73. In paragraph 352FA(i), after, “the applicant is married to or the civil partner of a person who”, delete, “is currently a beneficiary of” and insert, “has been granted”.
- 11.74. In paragraph 352FA(i), after, “who has been granted humanitarian protection”, delete, “granted under the immigration rules in the United Kingdom”.
- 11.75. In paragraph 352FD, after, “The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the unmarried or same-sex partner of a person who”, delete, “is currently a beneficiary of” and insert, “has been granted”.
- 11.76. In paragraph 352FD, after, “has been granted humanitarian protection”, delete, “ granted under the immigration rules in the United Kingdom”.

- 11.77. In paragraph 352FD(i), after, “the applicant is the unmarried or same-sex partner of a person who”, delete, “is currently a beneficiary of”, and insert, “has been granted”.
- 11.78. In paragraph 352FD(i), after, “has been granted humanitarian protection”, delete, “ granted under the immigration rules in the United Kingdom”.
- 11.79. In paragraph 352FG, after, “The requirements to be met by a person seeking leave to enter or remain in the United Kingdom in order to join or remain with their parent who”, delete, “is currently a beneficiary of” and insert, “has been granted”.
- 11.80. In paragraph 352FG, after, “has been granted humanitarian protection”, delete, “ granted under the immigration rules in the United Kingdom”.
- 11.81. In paragraph 352FG(i), after, “is the child of a parent who”, delete, “is currently a beneficiary of”, and insert, “has been granted”.
- 11.82. In paragraph 352FG(i), after, “has been granted humanitarian protection”, delete, “ granted under the immigration rules in the United Kingdom”.
- 11.83. In paragraph 352FJ, after, “Nothing in paragraphs 352A-352FI shall allow a person to be granted leave to enter or remain in the United Kingdom as the spouse or civil partner, unmarried or same sex partner or child of a”, insert, “ person who has been granted”. After “ refugee”, insert, “ status”. After, “on or after 30 August 2005, if the”, insert, “ person granted”. After, “refugee”, insert, “status”.

Changes to Appendix A

- A1. At the end of paragraph 19(g)(ii)(7), delete “or”.
- A2. At the end of paragraph 19(g)(ii)(8), delete “.” and substitute “, or”.
- A3. After paragraph 19(g)(ii)(8), insert:
- “(9) The Association of Accounting Technicians (AAT).”
- A4. Delete paragraph 41 and substitute:
- “41(a) An applicant will only be considered to have access to funds if:
- (i) 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);
- (ii) The specified documents in paragraph 41-SD are provided to show that they have permission to use the money to invest in a business in the UK, and that

- (1) they have held the money for a consecutive 90-day period of time, ending no earlier than 31 days before the date of application, or
- (2) they have held the money for less than a consecutive 90-day period of time, ending no earlier than 31 days before the date of application, and they provide the following specified evidence:

- (a) the documents in either 41-SD(c)(i) or 41-SD(c) (ii) to demonstrate funding is available to them at the time of their application, and

- (b) the additional specified documents for third party funding listed in 41-SD (d)(i)-(ii);

(iii) The money is either held in a UK regulated financial institution or is transferable to the UK; and

(iv) 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(b) If the applicant has invested the money referred to in Table 4 in the UK before the date of the application, points will be awarded for funds available as if the applicant had not yet invested the funds, providing:

- (i) The investment was 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; and

- (ii) All of the specified documents required in paragraph 46-SD (a) to (g) are provided to show:

- (a) the amount of money invested; and

- (b) that they have established a new business or taken over an existing business in the UK, in which the money was invested.”.

A5. Delete paragraph 41-SD(c)(i)(10) and substitute:

“(10) for money being held by a third party at the time of the application and not in the possession of the applicant, confirm that the third party has informed the institution of the amount of money that the third party intends to make available, and that the institution is not aware of the third party having promised to make that money available to any other person.”.

A6. At paragraph 41-SD(c)(i)(11) delete “confirm the name of each third party and their contact details, including their full address including postal code, and where available landline phone number and any email address, and” and

substitute “confirm the name of each third party and their contact details, including their full address including postal code, telephone contact number and any email address; and”.

- A7. Paragraph 41-SD(c)(iii)(1) after “the Chartered Institute of Management Accountants” delete “or the Association of International Accountants, or” and add, “, the Association of International Accountants or the Association of Accounting Technicians (AAT), or”.
- A8. At paragraph 41-SD(c)(iv)(8) delete “include the contact details of an official of the organisation, including their full address, postal code and, where available, landline phone number and any email address,” and substitute “include the contact details of an official of the organisation, including their full address, postal code, telephone contact number and any email address,”.
- A9. After paragraph 41-SD(c)(iv)(8) insert:
- “(9) if the money is coming from a UK Seed Funding Competition, give confirmation that either the applicant, the entrepreneurial team or the applicant’s business has been awarded money and that the competition is listed as endorsed on the UK Trade & Investment website, together with the amount of the award and naming the applicant, the entrepreneurial team or the applicant’s business as a winner;
- (10) if the money is coming from a UK or Devolved Government Department (or intermediary public body authorised to award funds from that Department), give confirmation that the UK or Devolved Government Department has made money available for the specific purpose of establishing or expanding a UK business, and the amount.”.
- A10. At paragraph 41-SD(d)(i), after “If the applicant is applying using money from a third party” insert “other than funding from a UK Seed Funding Competition, or UK or Devolved Government Department (or intermediary public body authorised to award funds from that Department)” .
- A11. At paragraph 41-SD(d)(i), delete (7) and (8) and renumber (9) and (10) as (7) and (8) respectively.
- A12. At paragraph 41-SD(d)(ii) delete “who is independent from the third party or third parties”.
- A13. At paragraph 41-SD(d)(ii)(5), for “(which cannot be the legal representative themselves or their client),” substitute “(which cannot be the legal representative themselves),”.
- A14. At paragraph 41-SD(d)(ii)(7), delete “Venture Capitalist Firm,” and replace with “Venture Capital Firm”.
- A15. Delete paragraph 41-SD(e)(iii) and substitute:

“(iii) one or more of the following specified documents showing that the business was active before 11 July 2014 or 6 April 2015 (as applicable) and that it remained active throughout the period leading up to the date of his application (if the applicant or his entrepreneurial team member does not own the domain name of the business’s website, then the evidence in (2) may not be provided, and he must instead provide one or more of the documents specified in (1), (3), (4) or (5)):

- (1) dated advertising or marketing material, including printouts of online advertising other than on the business’s own website, that has been published locally or nationally and showing the name of the business and the business activity, or
- (2) if the applicant (or his entrepreneurial team member) owns the domain name of his business’s website and submits evidence to this effect, dated printouts from the business’s website detailing the service or product provided by the applicant’s business, or
- (3) dated article(s) or online links to dated article(s) in a newspaper or other publication showing the name of the business together with the business activity, or
- (4) dated information from a trade fair, at which the applicant has had a stand or given a presentation to market his business, showing the name of the business together with the business activity, or
- (5) personal registration with a UK trade body linked to the applicant's occupation; and”.

A16. At paragraph 41-SD(e)(iv), delete “one or more of the following documents showing trading, which must cover (either together or individually) a continuous period commencing before 11 July 2014 or 6 April 2015 (as applicable), up to no earlier than three months before the date of his application:” and substitute “one or more of the following specified documents showing that the business was trading before 11 July 2014 or 6 April 2015 (as applicable) and traded continuously throughout the period leading up to the date of his application:”.

A17. At paragraph 41-SD(e)(iv)(1)(a), delete “the applicant’s name and”.

A18. At paragraph 41-SD(e)(iv)(1)(c) delete “the name of the other party or parties involved in the contract and their contact details, including their full address, postal code and, where available, landline phone number and any email address; and” and substitute “the name of the other party or parties involved in the contract and their contact details, including their full address, postal code, telephone contact number and any email address; and”.

A19. At paragraph 41-SD(e)(iv)(1)(d), delete “the duration of the contract; or” and substitute “the duration of the contract or, if it is a rolling contract with no defined end date, confirmation of when this arrangement began and a letter

from the customer or their representative confirming that the contract has not been terminated, dated no earlier than three months before the date of application; or”.

A20. At paragraph 41-SD(e)(vi)(1) delete “a printout of a Companies House document showing the address of the registered office in the UK, or head office in the UK if it has no registered office, and the applicant's name, as it appears on the application form, as a director; and” and substitute “a printout of a Companies House document, showing the address of the registered office in the UK, or head office in the UK if it has no registered office, and the applicant's name, as it appears on the application form, as a director, and a printout of the company’s filing history page; and”.

A21. Delete paragraph 41-SD(e)(vii)(2) and substitute:

“(2) if the applicant is currently a director, a company bank statement from a UK account which shows transactions for that company, or a letter from the UK bank in question, on its headed paper, confirming that the company has a bank account, that the applicant is a signatory of that account, and that the company uses that account for the purposes of his business.”.

A22. Delete paragraph 45 and renumber paragraph 45A as paragraph 45.

A23. At the new paragraph 45, delete “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.” and substitute “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 Home Office is unable to make satisfactory verification checks.”.

A24. At paragraph 46-SD delete “The specified documents in paragraphs 45 and 46 are as follows” and substitute “The specified documents in paragraphs 41(b) and 46 are as follows”.

A25. Delete paragraph 46-SD (a) (iii) and substitute:

“(iii) If the applicant has made the investment in the form of a director's loan, it must be shown both in the relevant set of financial accounts provided, and through readily identifiable transactions in the applicant’s business bank statements, which must clearly show the transfer of this money from the applicant to his business. The applicant must also provide a legal agreement, between the applicant (in the name that appears on his application) and the company, showing:

- (1) the terms of the loan,
- (2) any interest that is payable,
- (3) the period of the loan, and
- (4) that the loan is unsecured and subordinated in favour of third-party creditors.”.

A26. Delete paragraph 46-SD (b) and substitute:

“(b) Audited or unaudited accounts must show the investment in money made directly by the applicant, in his own name or on his behalf (and showing his name). If he has invested by way of share capital the business accounts must show the shareholders, the amount and value of the shares (on the date of purchase) in the applicant's name as it appears on his application. If the value of the applicant's share capital is not shown in the accounts, then a copy of the company's register of members must be provided. The accounts must clearly show the name of the accountant, the date the accounts were produced, and how much the applicant has invested in the business. The accounts must be prepared and signed off by the accountant in accordance with statutory requirements.”.

A27. Delete paragraph 46-SD(e) and substitute:

“(e) Where Table 4 applies and the applicant is applying for entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) and only some of the money has been invested into a business in the UK prior to his application, he must demonstrate that the balance of funds is held in a regulated financial institution and disposable in the UK by supplying the appropriate documentation in paragraph 41-SD, as well the documentation in 46-SD as evidence for the previous investment.”.

A28. Delete paragraph 46-SD(h) and substitute:

“(h) if the applicant is required to score points for job creation in Table 5 or Table 6, he must provide the following:

- (i) evidence to show the applicant is reporting Pay As You Earn (PAYE) income tax appropriately to HM Revenue & Customs (HMRC), such as printouts of Employee Payment Records, Real Time-Full Payment Submissions (either a series of individual monthly submissions including the first submission or summaries), or original HM Revenue & Customs P45 or P46, which either together or individually show the total payments made to the settled workers, as well as the tax deducted and date which they started work with the applicant's business; and
- (ii) duplicate payslips or wage slips for each settled worker for whom points are being claimed, covering the full period of the employment for which points are being claimed; and
- (iii) confirmation of the hourly rate for each settled worker used to claim points, including any changes in the hourly rate and the dates of the changes, enabling calculation of the hours of work created for each settled worker; and
- (iv) documents which show the employee is a settled worker such as the biometric data page of a passport containing photograph and personal details of the employee, and where the worker is an overseas national, a copy of any UK Government stamp or endorsement within the

- passport, or the employee's full birth certificate, showing the name of at least one parent; and
- (v) if the applicant was a director of a company, a printout from Companies House of the company's filing history page and of the applicant's personal appointments history, and showing the date of his appointment as a director of that company, to confirm that he was a director of the company that employed the settled worker at the time that the settled worker was employed; or
 - (vi) if the applicant was self-employed, the specified documents in (c) above showing the dates that the applicant became self-employed, the names on the Employee Payment Record and bank account, and the address of the business;
 - (vii) if the applicant took over or joined a business that employed workers before he joined it, he must provide the following documentation for the year immediately before the jobs were created and the year that the jobs were created, showing the net increase in employment and signed and dated by the applicant:
 - (1) duplicate HM Revenue & Custom (HMRC) Full Payment Submission sent to HMRC under Real Time; or
 - (2) if the business started employing staff for which points are being claimed before they were reporting under Real Time, a form P35,
 - (viii) if the applicant took over or joined a business that employed workers before he joined it, he must also provide an original accountant's letter verifying the net increase in employment and confirming the number of posts. The accountant must be a member of the Institute of Chartered Accountants in England and Wales, the Institute of Chartered Accountants in Scotland, the Institute of Chartered Accountants in Ireland, the Association of Chartered Certified Accountants, the Association of Authorised Public Accountants, the Chartered Institute of Public Finance and Accountancy, the Institute of Financial Accountants, the Chartered Institute of Management Accountants, the Association of International Accountants or the Association of Accounting Technicians (AAT). The letter must contain:
 - (1) the name and contact details of the business,
 - (2) the applicant's status in the business,
 - (3) the number of posts created in the business and the hours worked,
 - (4) the dates of the employment created,
 - (5) the registration or permission of the accountant to operate in the United Kingdom,
 - (6) the date that the accountant created the letter on the applicant's behalf, and
 - (7) that the accountant will confirm the content of the letter to the Home Office on request."

A29. Delete paragraph 65(b), and substitute:

“(b) Open-ended investment companies, investment trust companies, investment syndicate companies or pooled investment vehicles.”.

- A30. At paragraph 65B delete “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.” and substitute “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 Home Office is unable to make satisfactory verification checks.”.
- A31. In Appendix A, paragraph 65-SD(b)(iv) after “the Chartered Institute of Management Accountants,” add, “the Association of Accounting Technicians (AAT),”.
- A32. At paragraph 65-SD (b), delete “Where the applicant is applying under Table 8B or Table 9B, previously had leave as an Investor and is unable to provide the evidence listed above because he manages his own investments, or because he has a portfolio manager who does not operate in the UK and is therefore not regulated by the Financial Conduct Authority (FCA) (and the Prudential Regulation Authority (PRA) where applicable), the applicant must provide the following specified documents showing his holdings used to claim points, as relevant to the type of investment:” and substitute “Where the applicant previously had leave as an Investor, is applying under Table 8B or Table 9B and is unable to provide the evidence listed above because he manages his own investments, or because he has a portfolio manager who does not operate in the UK and is therefore not regulated by the Financial Conduct Authority (FCA) (and the Prudential Regulation Authority (PRA) where applicable), the applicant must provide the following specified documents showing his holdings used to claim points, as relevant to the type of investment:”.
- A33. In paragraph 65-SD(b)(iv) after “the Association of International Accountants add, “or the Association of Accounting Technicians (AAT).”.
- A34. In paragraph 65-SD(c)(i), delete “Documents confirming the purchase of assets in the UK, showing the assets purchased, the value of these assets and the dates of purchase. When using property only the unmortgaged portion of the applicant's own home can be considered and the valuation must be provided on a report issued by a surveyor (who is a member of the Royal Institution of Chartered Surveyors) in the six months prior to the date of application;” and substitute “Documents confirming the purchase of assets in the UK, showing the assets purchased, the value of these assets and the dates of purchase. When using property, only the unmortgaged portion of the applicant's own home can be considered. The property must be owned by the applicant (or applicant and/or the husband, wife, civil partner, or unmarried or same-sex partner of the applicant) and the valuation must be provided on a report issued by a surveyor (who is a member of the Royal Institution of Chartered Surveyors) in the six months prior to the date of application;”.
- A35. In paragraph 65-SD(c)(iii) delete “An original letter from the financial institution that holds the cash on deposit, on the institution's official headed paper, issued by an authorised official of that institution, which confirms the

dates and amount of money held and that the institution will confirm the content of the letter to the UK Border Agency on request.” and substitute “An original letter from the financial institution that holds the cash on deposit, on the institution's official headed paper, issued by an authorised official of that institution, which confirms the dates and amount of money held and that the institution will confirm the content of the letter to the Home Office on request.”.

A36. In paragraph 69(c)(i) delete “The UK Border Agency will, on an annual basis, invite all UK Higher Education Institutions which meet the requirements in (a)(i) to (iv) in the first row of Table 10 to take part as endorsing institutions, with responses required by 5 April for the year beginning the next day.” and substitute “The Home Office will, on an annual basis, invite all UK Higher Education Institutions which meet the requirements in (a)(i) to (iv) in the first row of Table 10 to take part as endorsing institutions, with responses required by 5 April for the year beginning the next day.”.

A37. Delete paragraph 70 (c)(xii) and (xiii) and substitute:

“(xii) what has led the endorsing body to endorse the application,

(xiii) that the applicant has a genuine and credible business idea,

(xiv) that the applicant will spend the majority of his working time on developing business ventures; and

(xv) if the applicant is applying for leave to remain and was last granted leave as a Tier 1 (Graduate Entrepreneur) Migrant, confirmation that the endorsing body is satisfied that he has made satisfactory progress.”.

A38. In paragraph 74C(a)(i), delete “working for the Sponsor” and substitute “working”.

A39. Delete paragraph 74C(b) and (c) and substitute:

“(b) Throughout the 12 months referred to in paragraph (a)(i) above, the applicant must have been working:

(i) outside the UK for a business established outside the territory of the UK which is linked by common ownership or control to the Sponsor, or

(ii) in the UK for the Sponsor, provided he had leave to work for the Sponsor as:

(1) a Tier 2 (Intra-Company Transfer) Migrant in either of the Short Term Staff or Long Term Staff sub-categories,

- (2) a Tier 2 (Intra-Company Transfer) Migrant in the established staff sub-category under the rules in place before 6 April 2011,
 - (3) a Tier 2 (Intra-Company Transfer) Migrant under the rules in place before 6 April 2010,
 - (4) a Qualifying Work Permit Holder (provided that the work permit was granted because the holder was the subject of an Intra-Company Transfer), and/or
 - (5) a Representative of an Overseas Business, where the Sponsor is the business established by the applicant while he had leave in that capacity; and
- (c) The period of 12 months referred to in paragraph (a)(i) above is:
- (i) a continuous period of 12 months immediately prior to the date of application, or
 - (ii) an aggregated period of at least 12 months within the 24 month period immediately before the date of application, if at some point within the 12 months preceding the date of application, the applicant has been:
 - (1) on maternity, paternity, shared parental or adoption leave, or
 - (2) on long-term sick leave lasting one month or longer,

and if requested to provide the specified documents set out in paragraph 74C-SD(a) below, also provides, at the same time, the specified documents as set out in paragraph 74C-SD(c) below, or
 - (iii) an aggregated period of at least 12 months overseas within any timeframe, providing the applicant has been working continuously and lawfully (either overseas or in the UK) for the Sponsor or the linked overseas business since the start of that aggregated 12-month period.”

A40. In paragraph 74C-SD(c), delete “maternity, paternity or adoption leave” and substitute “maternity, paternity, shared parental or adoption leave”.

A41. In paragraph 74C-SD(c)(ii)(2), delete “maternity, paternity or adoption payments” and substitute “maternity, paternity, shared parental or adoption payments”.

A42. In paragraph 79A(b)(i)(1), delete “30 March 2015” and substitute “30 April 2015”.

A43. Delete paragraph 79A(b)(iii) and substitute:

“(iii) will be paid at least the appropriate rate for a pre-registration candidate nurse or midwife before that registration is achieved and at least the appropriate rate for a Band 5 and equivalent nurse or midwife once that registration is achieved, as stated in the codes of practice in Appendix J;”

A44. In paragraphs 83A and 83B, delete all references to “32 points” and substitute “21 points” in each case.

A45. In Appendix A, delete paragraph 100 and substitute:

“100(a) In addition the Certificate of Sponsorship Checking Service entry must confirm that the migrant:

- (i) is qualified to do the job in question
- (ii) has been issued a unique endorsement number showing that he has been endorsed in line with the published endorsement criteria 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),
- (iii) intends to base himself in the UK, and
- (iv) will comply with the conditions of his leave, if his application is successful.

(b) The applicant must provide the original letter issued by the Governing Body containing the endorsement referred to in (a)(ii) above, which must confirm that:

- (i) the player or coach is internationally established at the highest level,
- (ii) his employment will make a significant contribution to the development of his sport at the highest level in the UK, and
- (iii) the post could not be filled by a suitable settled worker.”

A46. In Appendix A, delete paragraph 111(a) and substitute:

“(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 issued a unique endorsement number showing that he has been endorsed in line with the published endorsement criteria 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 applicant provides the original letter issued by the Governing Body containing the endorsement referred to in (a) (i) above, which must confirm that the player or coach is internationally established at the highest level and/or will make a significant contribution to the

development of his sport at the highest level in the UK, and that the post could not be filled by a suitable settled worker.”

A47. Delete paragraph 111(c) and substitute:

“(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 which contributes directly to the achievement or advancement of the sponsor’s charitable purpose;
- (ii) not paid or otherwise remunerated, including receipt of benefits in kind, (except reasonable expenses outlined in section 44 of the National Minimum Wage Act); and
- (iii) not filling a permanent position, including on a temporary basis.”

Changes to Appendix Administrative Review

AR1. In Appendix AR, in paragraph AR2.4, after “paragraph AR2.11(a)” delete “ or (b)” and substitute “, (b) or (c)”.

AR2. In Appendix AR, in paragraph AR2.5, after “paragraph AR2.11(a)” delete “ or (b)” and substitute “, (b) or (c)”.

AR3. In Appendix AR, delete paragraph AR2.11 and substitute:

“AR2.11 For the purposes of these Rules, a *case working error* is:

(a) Where the *original decision maker’s* decision to:

- (i) refuse an application on the basis of paragraph 320(7A), 320(7B) or 322(1A) of these Rules; or
- (ii) cancel leave to enter or remain which is in force under paragraph 321A(2) of these Rules; or
- (iii) cancel leave to enter or remain which is in force under paragraph V9.2 or V9.4 of Appendix V of these Rules; or
- (iv) refuse an application of the type specified in paragraph AR3.2(d) of these Rules on grounds of deception,

was incorrect;

(b) Where the *original decision maker’s* decision to refuse an application on the basis that the date of application was beyond any time limit in these Rules was incorrect;

- (c) Where the *original decision maker*'s decision not to request specified documents under paragraph 245AA of these Rules was incorrect;
- (d) Where the *original decision maker* otherwise applied the Immigration Rules incorrectly; or
- (e) Where *the original decision maker* failed to apply the Secretary of State's relevant published policy and guidance in relation to the application."

Changes to Appendix Armed Forces

AF1. In paragraph 63, after sub-paragraph (a)(iii) insert:

"(iv) be exempt from immigration control; or".

Changes to Appendix B

B1. Delete paragraph 10(2) and substitute:

"(2) the qualification obtained,"

B2. After paragraph 10, insert:

"10A. The qualification obtained must meet or exceed the relevant level shown in Table 1 in:

- (i) speaking and listening, if the relevant level is A1 of the Council of Europe's Common European Framework for Language Learning, or
- (ii) all four components (reading, writing, speaking and listening), in all other cases,

unless the applicant was exempted from sitting a component on the basis of his disability."

Changes to Appendix E

E1. After paragraph (o), insert:

"(p) Where the applicant:

- (i) is not applying at the same time as the Relevant Points Based System Migrant, and
- (ii) in the application which led to his most recent grant of entry clearance or leave to remain, the Relevant Points Based System Migrant was not required to provide evidence of maintenance

funds because of the provisions in paragraph 5(b) of Appendix C,

the applicant is also not required to provide evidence of maintenance funds.”

- E2. After new paragraph (p) above, renumber previously existing paragraph (p) as (q).

Changes to Appendix FM

- FM1. In paragraph S-EC.1.1. for “1.8.” substitute “1.9.”

- FM2. After paragraph S-EC.1.8. insert:

“S-EC.1.9. The Secretary of State considers that the applicant’s parent or parent’s partner poses a risk to the applicant. That person may be considered to pose a risk to the applicant if, for example, they –
(a) have a conviction as an adult, whether in the UK or overseas, for an offence against a child;
(b) are a registered sex offender and have failed to comply with any notification requirements; or
(c) are required to comply with a sexual risk order made under the Anti-Social Behaviour, Crime and Policing Act 2014 and have failed to do so.”

- FM3. In paragraph S-LTR.2.1. for “2.4.” substitute “2.5.”

- FM4. After paragraph S-LTR.2.4. insert:

“S-LTR.2.5. The Secretary of State has given notice to the applicant and their partner under section 50(7)(b) of the Immigration Act 2014 that one or both of them have not complied with the investigation of their proposed marriage or civil partnership.”

- FM5. In paragraph E-LTRP.2.2. for (a) substitute:

“(a) on temporary admission or temporary release, unless:
(i) the Secretary of State is satisfied that the applicant arrived in the UK more than 6 months prior to the date of application; and
(ii) paragraph EX.1. applies; or”

- FM6. In Appendix FM in paragraph R-ILRP.1.1.(d)(ii) after “E-LTRP.2.1.” insert “-2.2”.

- FM7. In paragraph E-LTRPT.3.2. for (a) substitute:

“(a) on temporary admission or temporary release, unless:
(i) the Secretary of State is satisfied that the applicant arrived in the UK more than 6 months prior to the date of application; and

(ii) paragraph EX.1. applies; or”.

FM8. In paragraph R-ILRPT.1.1. for (d) substitute:

“(d) the applicant:

(i) must meet all of the requirements of Section E-LTRPT: Eligibility for leave to remain as a parent; or

(ii) must meet all of the requirements of paragraphs E-LTRPT.2.2.-2.4. and E-LTRPT.3.1.-3.2. and paragraph EX.1. applies; and”.

Change to Appendix FM-SE

FM-SE1. For paragraph 27 substitute:

“27. The evidence required of passing 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, where the applicant relies on that pass to meet an English language requirement, is confirmation on the on-line verification system operated by an approved English language test provider, as specified in Appendix O to these Rules, that:

(i) the applicant has passed such a test; and

(ii) that test was an English language test in speaking and listening which is approved by the Secretary of State, as specified in Appendix O, and was taken no more than two years before the date of application and at a test centre approved by the Secretary of State as a Secure English Language Test Centre.”.

Changes to Appendix G

G1. Delete Appendix G and substitute:

“Appendix G: Countries and Territories participating in the Tier 5 Youth Mobility Scheme and annual allocation of places for 2016

Places available for use by Countries and Territories with Deemed Sponsorship Status:

Australia – 45,500 places
New Zealand – 12,000 places
Canada – 5,000 places
Japan – 1,000 places
Monaco – 1,000 places

Places available for use by Countries and Territories without Deemed Sponsorship Status:

Taiwan – 1,000 places
South Korea – 1,000 places
Hong Kong – 1,000 places”.

Changes to Appendix I

- I1. Delete Appendix I.

Changes to Appendix J

- J1. In the row of Table 2 containing “2231 Nurses”, delete “30 March 2015” and substitute “30 April 2015”.
- J2. In the row of Table 2 containing “2232 Midwives”, delete “30 March 2015” and substitute “30 April 2015”.

Changes to Appendix K

- K1. After paragraph 3, insert:

“4. In this Appendix “qualifying company” means a company which:

- (a) has obtained permission from the Home Office to issue a Certificate of Sponsorship in respect of the relevant job on the basis that the job is included on the Shortage Occupation List and the company:
 - (i) is licensed as a sponsor for the purposes of Tier 2 of the Points Based System,
 - (ii) at the time of obtaining such permission, employs between 20 and 250 employees (inclusive), or employs fewer than 20 employees and has provided a letter from UK Trade & Investment (UKTI), confirming that UKTI have been working with the company and support the application in relation to its trade or investment activity,
 - (iii) is not more than 25% owned by a company which has one or more other establishments in the UK and one of those establishments employs more than 250 employees; and
 - (iv) has not been established in the UK for the purpose of supplying services exclusively to a single company or company group in the UK; and
- (b) will have no more than ten Tier 2 (General) Migrants working for it at any one time in jobs to which the requirement to be employed by a qualified company applies, if all Certificates of

Sponsorship in respect of such jobs lead to a grant of leave as a Tier 2 (General) Migrant.

5. For the purposes of this Appendix, where the job is one to which a requirement for specified experience applies, the sponsor must retain:
 - (a) references from the individual's past employer(s) detailing the required experience, as set out in the tables below, and provide these to the Home Office on request; and
 - (b) relevant evidence enabling it to demonstrate:
 - (i) why the job requires someone with the required experience;
 - (ii) why the job could not be carried out to the required standard by someone with less experience; and
 - (iii) how it would expect a settled worker to gain this experience before being appointed to the post.

6. Jobs which previously appeared on the United Kingdom and Scotland Only Shortage Occupation Lists are set out in Tables 3 and 4. These jobs do not appear on the current lists and are set out for the purpose of informing indefinite leave to remain applications only. (The Standard Occupational Classification (SOC) Codes are those which the jobs appeared under at the time they were removed from the lists; the SOC codes may have changed since due to the reclassification from the SOC 2000 system to the SOC 2010 system.)”

K2. In Table 1, delete the rows containing “2135 IT business analysts, architects and system designers” and “2136 Programmers and software development professionals”, and substitute:

“

2133 IT specialist managers	<p>Only the following job in this occupation code:</p> <ul style="list-style-type: none"> • IT product manager employed by a qualifying company, where the job requires a person with a minimum of five years’ relevant experience and demonstrable experience of having led a team.
2135 IT business analysts, architects and system designers	<p>Only the following jobs in this occupation code:</p> <ul style="list-style-type: none"> • systems engineer in visual effects and 2D/3D computer animation for the film, television or video games sectors • data scientist employed by a qualifying company, where the job requires a person with a minimum of five years’ relevant experience and demonstrable experience of

	having led a team.
2136 Programmers and software development professionals	<p>Only the following jobs in this occupation code:</p> <ul style="list-style-type: none"> • Senior developer employed by a qualifying company, where the job requires a person with a minimum of five years’ relevant experience and demonstrable experience of having led a team. <p>The following jobs in visual effects and 2D/3D computer animation for the film, television or video games sectors:</p> <ul style="list-style-type: none"> • software developer • shader writer • games designer <p>The following jobs in the electronics system industry:</p> <ul style="list-style-type: none"> • driver developer • embedded communications engineer
2139 Information technology and communications professionals not elsewhere classified	<p>Only the following job in this occupation code:</p> <ul style="list-style-type: none"> • Cyber security specialist employed by a qualifying company, where the job requires a person with a minimum of five years’ relevant experience and demonstrable experience of having led a team.

”

- K3. In Table 1, delete the row containing “2219 Health professionals not elsewhere classified” and “2229 Therapy professionals not elsewhere classified”, and substitute:

“

2219 Health professionals not elsewhere classified	<p>Only the following jobs in this occupation code:</p> <ul style="list-style-type: none"> • neurophysiology healthcare scientist • neurophysiology practitioner • nuclear medicine scientist • orthotist • prosthetist
2231 Nurses	<p>All jobs in this occupation code</p> <p>The migrant being sponsored must either:</p> <p>(1) have obtained full registration with the Nursing and Midwifery Council; or</p>

	<p>(2) have passed the Nursing and Midwifery Council’s Computer Based Test (CBT) of competence; or</p> <p>(3) have obtained a Nursing and Midwifery Council permission before 30 April 2015 to undertake the Overseas Nursing Programme, and be sponsored to undertake a supervised practice placement as part of the programme, which has been approved by the Nursing and Midwifery Council.</p> <p>Sponsors must retain evidence of the above and provide it to the Home Office on request. This evidence must be provided in any applications for Restricted Certificates of Sponsorship.</p>
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”

K4. In Table 1, in the row containing “5215 Welding trades”, delete:

“Sponsors must retain references from the individual's past employer(s) detailing three or more years' related on-the-job experience and provide these to the Home Office on request.

Sponsors must also retain relevant evidence to enable them to justify the following:

- 1) why does the job require someone with three or more years' related on-the-job experience? What elements of the job require this experience and why?
- 2) why could the job not be carried out to the required standard by someone with less experience?
- 3) how would you expect a settled worker to gain this experience before being appointed to the post?”

K5. In Table 1, in the row containing “5434 Chefs”, delete:

“Sponsors must retain references from the individual's past employer(s) detailing five or more years' relevant experience in a role of at least equivalent status and provide these to the Home Office on request.

Sponsors must also retain relevant evidence to enable them to justify the following:

- 1) why does the job require someone with at least five years' previous experience in a role of at least equivalent status? What elements of the job require this experience and why?

- 2) why could the job not be carried out to the required standard by someone with less experience?
- 3) how would you expect a settled worker to gain this experience before being appointed to the post?"

K6. In Table 2, delete the row containing “2231 Nurses”.

K7. After Table 2, insert:

“Table 3 – Jobs which have previously appeared on the United Kingdom Shortage Occupation List since 6 April 2011

Standard Occupational Classification (SOC) code and description	Job titles previously included on the United Kingdom Shortage Occupation List and further criteria	Date on which job titles were removed from the United Kingdom Shortage Occupation List	Date of application for indefinite leave to remain where job titles cease to provide exemption from the salary requirement in paragraph 245HF(d)(vi)
1123 Managers in mining and energy	the following jobs in the electricity transmission and distribution and electricity generation industries: <ul style="list-style-type: none"> • station manager • shift / group leader 	14 November 2011	14 November 2017
2112 Biological scientists and biochemists	<ul style="list-style-type: none"> • cardiac physiologist • clinical vascular scientist • respiratory physiologist • sleep physiologist 	6 April 2013	6 April 2019
2113 Physicists, geologists and meteorologists	<ul style="list-style-type: none"> • staff working in diagnostic radiology (including magnetic resonance imaging) • environmental scientist 	6 April 2013	6 April 2019
2121 Civil engineers	<ul style="list-style-type: none"> • project civil engineer in the electricity generation industry 	14 November 2011	14 November 2017

2121 Civil engineers	<ul style="list-style-type: none"> • mining and coal engineer • mining geotechnical engineer 	6 April 2013	6 April 2019
2122 Mechanical Engineers	<ul style="list-style-type: none"> • mechanical engineer in the electricity generation industry 	14 November 2011	14 November 2017
2122 Mechanical Engineers	<ul style="list-style-type: none"> • mechanical engineer in the aerospace industry 	6 April 2013	6 April 2019
2123 Electrical engineers	<p>all jobs in the electricity transmission and distribution industry, EXCEPT the following which remain on the list:</p> <ul style="list-style-type: none"> • power system engineer • control engineer • protection engineer 	14 November 2011	14 November 2017
2126 Design and development engineers	<ul style="list-style-type: none"> • simulation development engineer 	6 April 2013	6 April 2019
2127 Production and process engineers	<ul style="list-style-type: none"> • plant process engineer in the electricity transmission and distribution industry 	14 November 2011	14 November 2017
2129 Engineering professionals not elsewhere classified	<ul style="list-style-type: none"> • metallurgical / mineral processing engineer 	6 April 2013	6 April 2019
2211 Medical practitioners	<p>consultant in:</p> <ul style="list-style-type: none"> • audiological medicine • medical microbiology and virology • obstetrics and gynaecology • paediatric surgery • nuclear medicine 	14 November 2011	14 November 2017
2211 Medical practitioners	<p>consultant in:</p> <ul style="list-style-type: none"> • clinical neurophysiology • forensic psychiatry • general psychiatry 	6 April 2013	6 April 2019

	<ul style="list-style-type: none"> • genito-urinary medicine • neurology • occupational medicine • psychiatry of learning disabilities <p>higher specialty training post (ST4) in paediatrics</p> <p>non-consultant, non-training medical staff post in:</p> <ul style="list-style-type: none"> • general surgery • obstetrics and gynaecology • paediatrics • trauma and orthopaedic surgery 		
2211 Medical practitioners	<p>consultant in:</p> <ul style="list-style-type: none"> • haematology <p>non-consultant, non-training medical staff post in:</p> <ul style="list-style-type: none"> • psychiatry (excluding old-age psychiatry) • general medicine specialities delivering acute care services (intensive care medicine, general internal medicine (acute)) • anaesthetics • rehabilitation medicine 	6 April 2015	6 April 2021
2213 Pharmacists / pharmacologists	ALL jobs in this occupation code	14 November 2011	14 November 2017
2215 Dental practitioners	<ul style="list-style-type: none"> • consultant in paediatric dentistry 	14 November 2011	14 November 2017
2216 Veterinarians	<ul style="list-style-type: none"> • veterinary surgeon 	14 November 2011	14 November 2017
2217 Medical radiographers	<ul style="list-style-type: none"> • HPC registered therapeutic radiographer 	6 April 2015	6 April 2021

2314 Secondary education teaching professionals	<ul style="list-style-type: none"> secondary education teacher in the subject of biology 	14 November 2011	14 November 2017
2316 Special needs education teaching professionals	<ul style="list-style-type: none"> all teaching posts in special schools 	6 April 2013	6 April 2019
2423 Management consultants, actuaries, economists and statisticians	<ul style="list-style-type: none"> qualified actuary working in the life assurance, general insurance, or health and care sectors 	6 April 2013	6 April 2019
3119 Science and engineering technicians not elsewhere classified	<ul style="list-style-type: none"> production controller in the electricity generation industry 	14 November 2011	14 November 2017
3223 Speech and language therapists	<ul style="list-style-type: none"> speech and language therapist at Agenda for Change bands 7+ or their independent sector equivalents 	14 November 2011	14 November 2017
3229 Therapists not elsewhere classified	<ul style="list-style-type: none"> HPC-registered orthoptist 	14 November 2011	14 November 2017
3415 Musicians	<ul style="list-style-type: none"> tutti (also known as rank and file) orchestral musician who meets the standard required by internationally recognised companies (e.g. London Symphony Orchestra, London Philharmonic Orchestra, Philharmonia Orchestra, and Royal Philharmonic Orchestra) 	14 November 2011	14 November 2017
3434 Photographers and audio visual equipment operators	<p>the following roles in visual effects and 2D/3D computer animation for film, television or video games:</p> <ul style="list-style-type: none"> animation supervisor editor 	14 November 2011	14 November 2017

	<ul style="list-style-type: none"> • R&D software • R&D tools • rigging supervisor • software engineer 		
5249 Line repairers and cable jointers	<ul style="list-style-type: none"> • overhead linesworker, working on high voltage lines that carry at least 275,000 volts (except at Linesworker Erector 2 (LE2) level and above and where the pay is at least £32,000 per year – These jobs remain on the Shortage Occupation List) 	6 April 2015	6 April 2021

Table 4 – Jobs which have previously appeared on the Scotland Only Shortage Occupation List since 6 April 2011

Standard Occupational Classification (SOC) code and description	Job titles previously included on the Scotland only Shortage Occupation List and further criteria	Date on which job titles were removed from the Scotland only Shortage Occupation List	Date of application for indefinite leave to remain where job titles cease to provide exemption from the salary requirement in paragraph 245HF(d)(vi)
2211 Medical practitioners	<ul style="list-style-type: none"> • consultant radiologist 	14 November 2011	14 November 2017

”

Changes to Appendix KoLL

KoLL1. In paragraph 2.2(a), delete sub-paragraphs (ii), (vi) and (vii).

KoLL2. After paragraph 2.2(b)(iii), insert:

“or

(c) the on line verification system operated by an approved English language test provider, as specified in Appendix O to these Rules, confirms that 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, which is approved by the Secretary of State, as specified in Appendix O, and taken at a test centre approved by the Secretary of State as a Secure English Language Test Centre no more than two years before the date of application.”.

KoLL3. For paragraph 3.2(b)(ii) substitute:

“(ii) where paragraph 39C(c) of these Rules applies, the on-line verification system operated by an approved English language test provider, as specified in Appendix O to these Rules, confirms that the applicant has passed an English language test in speaking and listening, at a minimum level A2 of the Common European Framework of Reference for Languages, which is approved by the Secretary of State, as specified in Appendix O, and taken at a test centre approved by the Secretary of State as a Secure English Language Test Centre no more than two years before the date of application.”.

KoLL4. In paragraph 3.2(c), delete “, or Esol entry level 3 or Scottish Credit and Qualification Framework level 4”.

KoLL5. In paragraph 3.3-

(a) in the introductory wording, after “applies” insert “subject to paragraph 3.2 of this Appendix,”; and

(b) for sub-paragraphs (i) to (iii) substitute:

“(i) in cases where the applicant failed to satisfy paragraph 2.2 of this Appendix, the on-line verification system operated by an approved English language test provider, as specified in Appendix O to these Rules, confirms that 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, which is approved by the Secretary of State, as specified in Appendix O, and taken at a test centre approved by the Secretary of State as a Secure English Language Test Centre no more than two years before the date of application; or
(ii) in cases where the applicant failed to satisfy paragraph 2.3 of this Appendix, 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) in cases where the applicant failed to satisfy paragraphs 2.2 and 2.3 of this Appendix, the requirements set out in sub-paragraphs (i) and (ii) are met.”.

KoLL6. In paragraph 4.1, after “documents” insert “or information”.

KoLL7. For paragraph 4.7, substitute-

“4.7 The information specified for the purposes of paragraph 2.2(c) of this Appendix is the unique reference number assigned by the provider to the English language test taken by the applicant.”.

KoLL8. For paragraph 4.13, substitute:

“4.13 The information or evidence specified for the purposes of paragraph 3.2(b)(i) (evidence of English language speaking and listening) is:

(a) the unique reference number assigned by the provider to the English language test taken by the applicant; or

(b) 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 ESOL entry level 2; or

(c) 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 Scottish Credit and Qualifications Framework level 3.”

KoLL9. For paragraph 4.13A, substitute-

“4.13A The information specified for the purposes of paragraph 3.2(b)(ii) (evidence of English language speaking and listening) is the unique reference number assigned by the provider to the English language test taken by the applicant.”.

KoLL10. For paragraph 4.16, substitute:

“4.16 The information specified for the purposes of paragraph 3.3(i) of this Appendix (evidence of English language speaking and listening) is the unique reference number assigned by the provider to the English language test taken by the applicant.”.

Changes to Appendix L:

L1. Delete paragraphs 10 (including the table) and 11, and substitute:

“10. To be considered for endorsement, the applicant must:

- (a) satisfy one of the mandatory criteria in the table below; and
- (b) satisfy at least two of the qualifying criteria in the table below.

Mandatory
The applicant must: <ul style="list-style-type: none">• Have a proven track record of innovation in the digital technology sector as a director, founder or employee of a digital technology sector company;• Demonstrate recognition for work outside their immediate occupation that has contributed to the advancement of the sector.
Qualifying
The applicant must: <ul style="list-style-type: none">• Have made significant technical, commercial or entrepreneurial contributions in the digital technology sector as either a director, founder, or employee of a digital technology sector company;• Have been recognised as a world leading talent in the digital technology sector;• Have undergone continuous learning / mastery of new digital skills (commercial or technical) throughout their career;• Demonstrate exceptional ability in the field by making academic contributions through research.

11. The applicant must provide the following documents:

- (a) A completed Designated Competent Bodies' Tier 1 (Exceptional Talent) application form;

- (b) A curriculum vitae outlining his career and publication history (of no more than 3 A4 sides in length);
- (c) A personal cover letter written by the applicant (of no more than 2 A4 sides in length. This letter must:
 - (i) include why the applicant wants to come to the UK;
 - (ii) include details of their intended occupation in the UK;
 - (iii) include details of which region/city they intend to base themselves in;
 - (iv) explain how the UK digital sector would benefit from their work; and
 - (v) include details of the applicant's long term plans in the UK.
- (d) Two dated letters of recommendation on headed paper written in support of the application signed by a recognised expert who is familiar with his work and his contribution to his field, and is qualified to assess his claim to be a world leader or potential world leader in his field. Both letters must:
 - (i) be written and signed by an authorised member of the organisation they represent, such as the Chief Executive, Chief Operating Officer, Finance Director or Head of Course;
 - (ii) include details of the author's credentials (for example, a curriculum vitae);
 - (iii) include details of how the recognised expert knows the applicant;
 - (iv) include the applicant's achievements in the specialist field, and how, in the opinion of the recognised expert, the applicant exhibits exceptional talent;
 - (v) include how the applicant would benefit from living in the UK and the contribution they would make to the UK digital technology sector;
 - (vi) include details of any future professional engagements the applicant has in the UK where applicable; and
 - (vii) include the recognised expert's personal email address and direct telephone number.

- (e) Evidence in relation to the relevant mandatory and qualifying criteria listed above. This evidence must consist of no more than 10 documents in total, and must be submitted as paper-based documents in hard copy with the application.”

Changes to Appendix M

M1. In the table, delete the row containing “Baseball” and substitute:

Baseball / Softball	BaseballSoftball UK	Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting)
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M2. In the table, delete the row containing “Ice Skating” and substitute:

Ice Skating	National Ice Skating Association of Great Britain and Northern Ireland	Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting)
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Changes to Appendix N

N1. Delete the entry in respect of “Chevening Programme” and substitute with the amended entry below:
“

Chevening and Marshall Sherfield Fellowships Programmes	This scheme accommodates two separate scholarship programmes: 1) Chevening programme – used by scholars and researchers attending the UK Environment Programme's World Conservation Monitoring Centre in Cambridge, the Oxford Centre for Islamic Studies and the Clore Leadership programme, and 2) The Marshall Sherfield Fellowships programme - an annual scheme whereby the Marshall Aid	Association of Commonwealth Universities (ACU)	Research and training programmes Maximum 24 months	All UK
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	Commemoration Commission awards Marshall Sherfield Fellowships to Scientists and Engineers from the United States of America, in order for them to undertake post-doctoral research at a British Research Institute or University for a period of one to two years.			
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”

- N2. Delete the entry in respect of “City Fellowships Scheme”.
- N3. Delete the entry in respect of “EU-China Managers Exchange and Training Programme (METP)” scheme.
- N4. Delete the entry in respect of “Fullbright UK-US Teacher Exchange Programme” scheme.
- N5. Delete the entry in respect of “Hanban: Mandarin teachers scheme” and substitute with the amended entry below:

“

Hanban: Mandarin teachers scheme	The scheme is part of Hanban's global exchange programme through which it sponsors volunteer and professional Mandarin teachers to undertake placements at Confucius institutes and classrooms in the UK, and at institutions in the UK which are covered by Hanban's teaching exchange programme. It is also used to sponsor co-directors to manage the	Hanban UK Ltd	Overseas Government language programme. Maximum 24 months	All UK
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	<p>programme in the UK and undertake some language teaching if needed. These roles are not filling vacancies.</p> <p>The scheme aims to build and/or enhance foreign language skills and foster good cultural relations between the UK and China.</p>			
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”

N6. Delete the entry in respect of “International Cross-Posting Programme for Kazakhstan” and substitute with the amended entry below:

“

International Cross-Posting Programme for Kazakhstan	The purpose of the International Cross-Posting Programme is to provide an opportunity for key oil workers from Kazakhstan to undertake work experience and training with Shell UK.	UK Trade & Investment	Work experience programme Maximum 12 months	All UK
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”

N7. Delete the entry in respect of “International Internship Scheme” and substitute with the amended entry below:

“

International Internship Scheme	A scheme for young people and future business leaders to experience working for a UK company which, as they develop in their careers, may encourage investment into the UK and the forging of international partnerships with multinational	Fragomen LLP	Work experience programme Maximum 12 months	All UK
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	companies in the UK and abroad.			
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”

N8. Delete the entry in respect of “London Organising Committee of the Olympic and Paralympic Olympic Games (LOCOG)” scheme.

Changes to Appendix V

V1. In paragraph V4.8, for “where they are undertaking a maximum of 30 days incidental study as permitted by Appendix 3” substitute “except as permitted by paragraph 25 of Appendix 3”.

V2. In paragraph V4.23(b), for “(which does not prohibit the incidental study allowed by the permitted activities at Appendix 3) substitute “, except as permitted by paragraph 25 of Appendix 3”.

V3. In paragraph 4 of Appendix 3 to Appendix V, after “incidental volunteering” insert “(i.e. the main purpose of the visit is not to volunteer)”.

V4. In paragraph 25 of Appendix 3 to Appendix V:

- i. delete the heading “Incidental study”; and
- ii. for sub-paragraph (b) substitute “(b) a maximum of 30 days study, provided that the main purpose of the visit is not to study.”.

Changes to HC 297

HC1. In the Changes section of the Statement of Changes in Immigration Rules HC 297, in paragraph 6A.10 renumber inserted sub paragraphs (1) and (2) to (a) and (b) respectively.

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 29 OCTOBER 2015 (HC 535)**

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

2. Purpose of the Instrument

2.1. The purpose of these changes is to:

- Make asylum claims from EU nationals inadmissible unless exceptional circumstances apply.
- Clarify the circumstances in which a grant of asylum (refugee status) and any associated leave may be revoked.
- Amend the Tier 1 (Exceptional Talent) criteria for digital technology applicants applying to be endorsed by Tech City UK.
- Add nurses, and four occupations in the digital technology sector to the Shortage Occupation List.
- Provide further explanation of the requirements for Tier 2 indefinite leave to remain applications which will apply from 6 April 2016.
- Make minor changes and clarifications to the Immigration Rules relating to sportspersons and coaches.
- Amend the definition of a “Training Programme” under Part 6A of the Rules.
- Clarify the current Tier 5 (Temporary Worker - Charity Worker) Rules to prevent permanent vacancies being filled by temporary charity workers on a recurring basis, and to prevent it being used to undertake low skilled work ancillary to the sponsor’s charitable purpose. It also clarifies that no form of remuneration, including benefits in kind, can be received by migrants using the route.
- Set the annual allocation of places for participating countries on the Tier 5 Youth Mobility Scheme for 2016.
- Make changes and clarifications to the Immigration Rules relating to family and private life.
- Update the list of Tier 5 Government Authorised Exchange schemes.
- Amend Part 10 of Appendix Armed Forces to allow for a child to seek leave to enter or remain where both their sponsor parent and other parent are exempt from immigration control.
- Amend the Knowledge of Language and Life requirement for Indefinite Leave to Remain (Appendix KoLL) so that applicants will no longer be able to demonstrate the required level of speaking and listening skills with an English language qualification which is not on the Secure English Language Test list in Appendix O.
- In Appendix KoLL amend the evidence requirements for demonstrating the required level of speaking and listening skills to reflect the on-line verification system introduced in April 2015.
- Clarify that visitors are permitted to study and volunteer for a maximum of 30 days (each) only if study/volunteering is not the main purpose of the visit.
- Make small corrections and technical changes to existing Immigration Rules.

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

3.1. The Committee is invited to note that amended guidance on processing asylum claims from EU nationals will be made available to give effect to these Rules changes.

4. Legislative Context

4.1. The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 for regulating the entry into and stay of persons in the United Kingdom.

4.2. This Statement of Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules, which can be found under the visas and immigration pages of the GOV.UK website at www.gov.uk/government/collections/immigration-rules where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.3. Protocol 24 of the Lisbon Treaty relates to asylum for nationals of EU Member States of the European Union. Protocol 24 states that asylum claims from EU nationals should be declared inadmissible unless they fall within one of the four criteria which mainly revolve around another EU country derogating from the European Convention on Human Rights (ECHR) or if it is decided unilaterally to consider the claim. Where the claim is considered, as per current policy, it must begin with a presumption that it is manifestly unfounded.

4.4. At an EU level, the Qualification, Procedures and Reception Directives which form the common asylum system are restricted in their application to Third Country Nationals and therefore do not apply to EU nationals. This is because all of the Directives (Procedures at Article 2(c); Reception at Article 2(b); and Qualification at Article 2(c)) make it clear that they only apply to third country nationals. That leaves EU nationals to rely on the Refugee Convention itself. Humanitarian Protection is not in the Convention and is a concept created by the Qualification Directive. So there is no international obligation to consider Humanitarian Protection for EU nationals.

4.5. In light of the above, there is no legislation that prevents the proposed changes to the Immigration Rules to make inadmissibility the default position for EU nationals who claim asylum; with the possibility of considering a claim in exceptional circumstances. Further, as the Procedures Directive does not apply to EU nationals, there is no international obligation to provide an interview. Immigration Rules are therefore being introduced to make asylum claims from EU nationals inadmissible unless exceptional circumstances apply.

4.6. Article 11 of Council Directive 2004/83/EC of 29 April 2004 laying down the minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted (the 'Qualification Directive'),

sets out the circumstances under which a third country national or stateless person shall cease to be a refugee. It states that:

Article 11

Cessation

1. A third country national or a stateless person shall cease to be a refugee, if he or she:
 - (a) has voluntarily re-availed himself or herself of the protection of the country of nationality; or
 - (b) having lost his or her nationality, has voluntarily re-acquired it; or
 - (c) has acquired a new nationality, and enjoys the protection of the country of his or her new nationality; or
 - (d) has voluntarily re-established himself or herself in the country which he or she left or outside which he or she remained owing to fear of persecution; or
 - (e) can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality;
 - (f) being a stateless person with no nationality, he or she is able, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, to return to the country of former habitual residence.
2. In considering points (e) and (f) of paragraph 1, Member States shall have regard to whether the change of circumstances is of such a significant and non-temporary nature that the refugee's fear of persecution can no longer be regarded as well-founded.

4.7. Article 12 of the Qualification Directive sets out the circumstances in which Member States may exclude someone from refugee status:

Article 12

Exclusion

1. A third country national or a stateless person is excluded from being a refugee, if:
 - (a) he or she falls within the scope of Article 1 D of the Geneva Convention, relating to protection or assistance from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees. When such protection or assistance has ceased for any reason, without the position of such persons being definitely settled in accordance with the relevant resolutions adopted by the General Assembly of the United Nations, these persons shall ipso facto be entitled to the benefits of this Directive;
 - (b) he or she is recognised by the competent authorities of the country in which he or she has taken residence as having the rights and obligations which are attached to the possession of the nationality of that country; or rights and obligations equivalent to those.

2. A third country national or a stateless person is excluded from being a refugee where there are serious reasons for considering that:
 - (a) he or she has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
 - (b) he or she has committed a serious non-political crime outside the country of refuge prior to his or her admission as a refugee; which means the time of issuing a residence permit based on the granting of refugee status; particularly cruel actions, even if committed with an allegedly political objective, may be classified as serious non-political crimes;
 - (c) he or she has been guilty of acts contrary to the purposes and principles of the United Nations as set out in the Preamble and Articles 1 and 2 of the Charter of the United Nations.
3. Paragraph 2 applies to persons who instigate or otherwise participate in the commission of the crimes or acts mentioned therein.

4.8. Article 14 of the Qualification Directive sets out the circumstances under which a Member State may revoke, end or refuse to renew refugee status. It states that:

Article 14

Revocation of, ending of or refusal to renew refugee status

1. Concerning applications for international protection filed after the entry into force of this Directive, Member States shall revoke, end or refuse to renew the refugee status of a third country national or a stateless person granted by a governmental, administrative, judicial or quasi-judicial body, if he or she has ceased to be a refugee in accordance with Article 11.
2. Without prejudice to the duty of the refugee in accordance with Article 4(1) to disclose all relevant facts and provide all relevant documentation at his/her disposal, the Member State, which has granted refugee status, shall on an individual basis demonstrate that the person concerned has ceased to be or has never been a refugee in accordance with paragraph 1 of this Article.
3. Member States shall revoke, end or refuse to renew the refugee status of a third country national or a stateless person, if, after he or she has been granted refugee status, it is established by the Member State concerned that:
 - (a) he or she should have been or is excluded from being a refugee in accordance with Article 12;
 - (b) his or her misrepresentation or omission of facts, including the use of false documents, were decisive for the granting of refugee status.
4. Member States may revoke, end or refuse to renew the status granted to a refugee by a governmental, administrative, judicial or quasi-judicial body, when:

- (a) there are reasonable grounds for regarding him or her as a danger to the security of the Member State in which he or she is present;
- (b) he or she, having been convicted by a final judgement of a particularly serious crime, constitutes a danger to the community of that Member State.

5. In situations described in paragraph 4, Member States may decide not to grant status to a refugee, where such a decision has not yet been taken.

6. Persons to whom paragraphs 4 or 5 apply are entitled to rights set out in or similar to those set out in Articles 3, 4, 16, 22, 31 and 32 and 33 of the Geneva Convention in so far as they are present in the Member State.

4.9. Article 24(1) of the Qualification Directive sets out the requirements on Member States to issue Residence Permits to those recognised as refugees, including when the minimum period of three years may be reduced. It states:

Article 24

Residence Permits

1. As soon as possible after their status has been granted, Member States shall issue to beneficiaries of refugee status a residence permit which must be valid for at least three years and renewable unless compelling reasons of national security or public order otherwise require, and without prejudice to Article 21(3).

Without prejudice to Article 23(1), the residence permit to be issued to the family members of the beneficiaries of refugee status may be valid for less than three years and renewable.

4.10. Article 38 of Council Directive 2005/85/EC of 1 December 2005 laying down minimum standards on procedures, sets out the Procedural Rules that apply to Member States when considering the withdrawal of refugee status under Article 14 of the Qualification Directive. Article 38(4) also permits Member States to consider refugee status to have lapsed where certain conditions are met. It states:

Article 38

Procedural rules

1. Member States shall ensure that, where the competent authority is considering withdrawing the refugee status of a third country national or stateless person in accordance with Article 14 of Directive 2004/83/EC, the person concerned shall enjoy the following guarantees:

- (a) to be informed in writing that the competent authority is reconsidering his or her qualification for refugee status and the reasons for such a reconsideration; and
- (b) to be given the opportunity to submit, in a personal interview in accordance with Article 10(1)(b) and Articles 12, 13 and 14 or in a written statement, reasons as to why his/her refugee status should not be withdrawn.

In addition, Member States shall ensure that within the framework of such a procedure:

- (c) the competent authority is able to obtain precise and up-to date information from various sources, such as, where appropriate, from the UNHCR, as to the general situation prevailing in the countries of origin of the persons concerned; and
- (d) where information on an individual case is collected for the purposes of reconsidering the refugee status, it is not obtained from the actor(s) of persecution in a manner that would result in such actor(s) being directly informed of the fact that the person concerned is a refugee whose status is under reconsideration, nor jeopardise the physical integrity of the person and his/her dependants, or the liberty and security of his/her family members still living in the country of origin.

2. Member States shall ensure that the decision of the competent authority to withdraw the refugee status is given in writing. The reasons in fact and in law shall be stated in the decision and information on how to challenge the decision shall be given in writing.

3. Once the competent authority has taken the decision to withdraw the refugee status, Article 15, paragraph 2, Article 16, paragraph 1 and Article 21 are equally applicable.

4. By derogation to paragraphs 1, 2 and 3 of this Article, Member States may decide that the refugee status shall lapse by law in case of cessation in accordance with Article 11(1)(a) to (d) of Directive 2004/83/EC or if the refugee has unequivocally renounced his/her recognition as a refugee.

4.11. The Qualification and Procedures Directives set out the minimum standards for qualification for refugee or other international protection status, the content of the protection granted and the minimum standards on procedures in Member States for granting and withdrawing refugee status.

4.12. The changes to Appendix A set out in paragraph A44 of this statement shall take effect for applications for Certificates of Sponsorship under the Tier 2 (General) limit decided from 19 November 2015.

4.13. The changes to the Introduction and Appendix A set out in paragraphs Intro1 and A47 of this statement shall take effect from 19 November 2015. However, if an application has been made for entry clearance or leave to remain before 19 November 2015, the application will be decided in accordance with the Rules in force on 18 November 2015. An application for leave to remain made after 18 November 2015 shall also be decided as if paragraph 6 of the Introduction and paragraph 111(c) of Appendix A of the Rules in force on 18 November remained in force, where that application is made by a person who entered the UK with entry clearance granted under the Rules applying on 18 November 2015 and the certificate of sponsorship

records that they are continuing to be sponsored by the same sponsor as they were at the time of the entry clearance application.

4.14. The changes to Part 8 and Appendix FM set out in paragraphs 8.1 to 8.2 and FM1 to FM8 of this statement shall take effect from 19 November 2015 and apply to all applications decided on or after that date regardless of the date of application.

4.15. The changes to the Introduction, Part 9 and Part 11 set out in paragraphs Intro5 to Intro8, 9.2, and 11.1 to 11.83 shall apply to all decisions made on or after 19 November 2015.

4.16. The change to Appendix FM-SE set out in paragraph FM-SE1 of this statement shall take effect from 19 November 2015. However, if an application has been made before 19 November 2015, the application will be decided in accordance with the version of paragraph 27 of Appendix FM-SE in force on 18 November 2015, except where the application was made before 6 November 2015 and the specified English language test relied upon was passed before 6 April 2015, in which case the transitional provisions set out in the fifth paragraph of the Implementation section of HC 1025 (beginning with the words “The changes set out in paragraphs 320 to 321”) continue to apply.

4.17. The changes to Appendix KoLL set out in paragraphs KoLL 1 to KoLL 10 of this statement shall take effect from 19 November 2015. However, if an application has been made before 19 November 2015, the application will be decided in accordance with Appendix KoLL in force on 18 November 2015, except where the application was made before 6 November 2015 and the specified English language test relied upon was passed before 6 April 2015, in which case the transitional provisions set out in the fifth paragraph of the Implementation section of HC 1025 (beginning with the words “The changes set out in paragraphs 320 to 321”) continue to apply.

4.18. The changes set out in paragraph G1 shall take effect from 1 January 2016.

4.19. The change to the Introduction set out in paragraph Intro9 of this statement will apply to applications made on or after 19 May 2016.

4.20. The other changes set out in this statement shall take effect from 19 November 2015. However, if an application has been made for entry clearance or leave to enter or remain before 19 November 2015, the application will be decided in accordance with the Rules in force on 18 November 2015.

5. Territorial Extent and Application

5.1. This Statement of Changes applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy Background

What is being done and why

Introducing new Immigration Rules to make asylum claims from EU nationals inadmissible

7.1. The Government is committed to ensuring the integrity and fairness of the asylum system and to ensuring that the UK complies with all relevant international obligations. The UK has a proud tradition of providing protection to those who need it but considering asylum claims substantively from nationals of EU Member States, which are considered to be safe countries, goes beyond our obligations under EU law and uses resources that could be focused on those in genuine need of protection.

7.2. The policy intention is to make asylum claims from EU nationals inadmissible unless exceptional circumstances apply and the new Immigration Rules to give this effect are contained in Part 11 (326A - 326F and 339NA). Where a claim is treated as inadmissible in accordance with these Rules it will not receive substantive consideration. There is no right of appeal against a decision to treat a claim as inadmissible though this may be challenged by way of Judicial Review.

7.3. Paragraph 326F sets out when exceptional circumstances criteria would apply and will require a claim that meets such a criteria to receive full consideration. Those whose claims are fully considered will have a right of appeal under section 82 of the Nationality, Immigration and Asylum Act 2002, but where appropriate could still be certified as clearly unfounded so any appeal must be brought from outside of the UK. Human rights issues raised will still be considered in accordance with our obligations under the European Convention on Human Rights (ECHR) where the appropriate application has been made in accordance with Home Office policy on GOV.UK.

7.4. Paragraph 339NA sets out the circumstances in which a personal interview may be omitted. This will enable each application that has been admitted to the full asylum process to be considered on its own merits and an interview omitted if appropriate. The onus will be on the individual to provide written reasons as to why their asylum claim should be considered under the exceptional circumstances criteria.

Changes relating to revocation or refusal to renew a grant of protection (refugee status or humanitarian protection)

7.5. The UK has a proud tradition of providing protection to those who need it, for as long as it is needed, in accordance with our international obligations. But there are circumstances in which it is appropriate to withdraw protection status, including where such protection is no longer required, and we need to be clear that temporary protection does not automatically lead to permanent settlement in the UK.

7.6. There are also individuals whose own behaviour calls into question their protection status and the leave that they have been granted, and it is appropriate that their current circumstances are fully reconsidered in order to review their entitlement to refugee status or humanitarian protection and any associated leave. There may be individuals who have used deception to obtain protection status and it is correct that we take steps to remove such status in those cases. There are others who have committed serious criminal offences and pose a danger to the community and those

who otherwise pose a danger to national security; these people, as a result, do not deserve our protection. Our aim is to exclude or remove such individuals from the UK at the earliest opportunity. Where this is not possible because removal would breach our obligations under the ECHR we will remove the benefits of refugee status or humanitarian protection and instead place individuals on more restrictive forms of leave to ensure their cases are kept under regular review.

7.7. These are complex issues governed by various levels of domestic and European legislation and the Refugee Convention. The current Immigration Rules have been added to, amended and updated at various stages leading to a confusing and sometimes conflicting reflection of what is legally required. It is therefore appropriate that we review the purpose of the Rules and the minimum legal requirements to ensure that they both accurately reflect our international obligations and strike the correct balance between providing protection, and ensuring that where protection is no longer required or deserved, it is clear how we will withdraw it.

7.8. We have added definitions of ‘Refugee Status’ and ‘Refugee Leave’ to clarify the distinction between ‘status’ and ‘leave’. This makes clear the action we are taking and the implications for individuals. It also clarifies the action we take when refugee status is revoked but we cannot remove the individual because doing so would breach our obligations under the ECHR. The changes make clear that although we cannot remove them, we will place such individuals on the most restrictive form of leave applicable to their circumstances and keep the case under regular review to facilitate removal as soon as practically possible.

7.9. There is a difference between the Refugee Convention and the Qualification Directive as regards the status of refugees. The Convention does not refer to ‘status’ other than to say that the personal status of a refugee shall be governed by the law of their country of domicile or residence (i.e. the laws of the signatory states) (Article 12). The Qualification Directive created the concept of, and the conditions for a common European ‘status’ for those recognised by Member States as in need of international protection; and in doing so, covered new ground which arguably goes further than the basic provisions of the Refugee Convention.

7.10. The Immigration Rules, by which we initially sought to implement the requirements of the Qualification Directive, are not currently wholly clear or comprehensive as regards all the various circumstances in which refugee status can be revoked in accordance with the Qualification Directive. This has resulted in confusion around the circumstances in which refugee status may legitimately be revoked.

7.11. The policy intention is to take a robust approach in cases where the application of these provisions is justified. Implementing the additional provisions of the Qualification Directive into the Immigration Rules may lead to some tension between them and the Refugee Convention. However, where people to whom we have previously granted refugee status and leave pose a threat to our security, we must ensure that we are able to make full use of the provisions of the Qualification Directive to manage that threat.

Revocation on exclusion grounds

7.12. The current Immigration Rules provide (at 339A(vii)) that a grant of asylum may be revoked if that person is excluded from being a refugee in accordance with Articles 1D, 1E or 1F of the Refugee Convention (Regulation 7 of The Refugee or

Person in Need of International Protection (Qualification) Regulations 2006). This provision is retained in the new paragraph 339AA of the Rules but in addition, paragraph 339AA implements Article 12(3) of the Qualification Directive. It brings people into the ambit of the exclusion provisions when they ‘instigate or otherwise participate’ in activities that fall within Article 1F of the Refugee Convention (crimes against peace, war crimes or crimes against humanity, a serious non-political crime, or acts contrary to the purposes and principles of the United Nations). Paragraph 339AA also confirms that refugee status will be revoked in these circumstances (as permitted by Article 14(3)(b) of the Qualification Directive).

Requirement to provide the refugee with the opportunity to respond

7.13. The Procedures Directive requires a mechanism to be in place to ensure that where consideration is being given to revoking Refugee Status, the refugee is provided with the opportunity to provide a response. We have amended the Immigration Rules to reflect the changes to appeal rights under the Immigration Act 2014 to ensure that this process can be initiated and completed whilst the refugee is outside the UK where applicable. We have also implemented the exception to this requirement set out in Article 38(4) of the Qualification Directive, which applies to situations of cessation and unequivocal renunciation of refugee status.

Defining family member for the purpose of issuing Travel Documents

7.14. The current Immigration Rules provide (at paragraph 344), that we will issue a person granted refugee status or Humanitarian Protection and their family members, a travel document in the form set out in the Schedule to the Refugee Convention (a ‘Convention Travel Document’). We have amended the Immigration Rules to clearly define ‘Family Member’ for the purposes of this Rule.

Changes relating to Tier 1 of the Points-Based System

7.15. Tier 1 of the Points-Based System caters for high value migrants, and currently consists of four active categories: Tier 1 (Exceptional Talent), Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Graduate Entrepreneur). It also includes the Tier 1 (General) category, which was closed to new applicants in April 2011 but remains open for settlement applications. A further category, Tier 1 (Post-Study Work), was closed in April 2012. The following changes are being made to Tier 1:

Tier 1 (Entrepreneur)

- We are making minor and technical changes to the evidential requirements for entrepreneurs to respond to partner feedback and to prevent abuse. In particular, we are:
 - making an amendment to the genuine entrepreneur test for initial applications so that the Secretary of State can make an assessment of any previous investment made by an applicant into a UK business, in order to be satisfied that this investment was genuine.
 - amending the rules on acceptable evidence of funding and investment to:

- clarify that the restriction on applicants investing in other businesses does not apply to those which the migrant is running as self-employed or as a director;
 - clarify the evidence required from applicants where they have invested by way of share capital, or by way of a director's loan; and
 - remove the requirement for applicants with third party funds from a UK government department or an approved seed fund to provide additional legal documentation to further validate this arrangement.
- making changes to clarify the requirements for evidence of continuous trading, with specific amendments to the rules concerning the ownership of web domain names and the use of rolling contracts. Additionally, the reference to 'trading online' has been removed from the Immigration Rules, as this has caused confusion for applicants; and
 - clarifying the evidence that applicants must provide to demonstrate they have created jobs at extension stage. This responds to the introduction of 'Real Time' PAYE reporting to HM Revenue & Customs, and will give applicants more flexibility in terms of the evidence they can provide.

Tier 1 (Graduate Entrepreneur)

- The prescribed content of the endorsement letter required from the endorsing body is being expanded to request confirmation that the applicant has a genuine and credible business idea and that they will spend the majority of their time developing business ventures.

Tier 1 (Investor)

- Minor and technical changes are being made to the drafting of the Immigration Rules, in particular to clarify that:
 - the provision in Appendix A, at paragraph 65-SD (b), only applies to migrants who previously had leave in the pre-Points Based System (PBS) Investor category;
 - when property is used as evidence for balance of funds, it can only be jointly owned with the spouse or partner of applicant; and
 - investment by way of share or loan capital in investment syndicate companies is not acceptable.

Tier 1 (Exceptional Talent)

- The criteria used by Tech City UK for endorsing digital technology applicants in the Tier 1 (Exceptional Talent) category have been revised, to better reflect the skills and experience of target applicants who are most likely to add value to the UK digital technology sector.

Changes across Tier 1

- The Association of Accounting Technicians (AAT) is being added to the list of UK accounting bodies whose evidence is accepted in various Tier 1 categories.

Changes relating to Tier 2 of the Points-Based System

7.16. Tier 2 of the Points-Based System caters for migrant workers with an offer of a skilled job from a licensed employer. There are four overall categories: Intra-Company Transfer (ICT), General, Minister of Religion, and Sports person. The following changes are being made to Tier 2:

- Four jobs in the digital technology sector (product manager, data scientist, senior developer and cyber security specialist) are being added to the Shortage Occupation List (SOL), following a partial review of the SOL published by the Migration Advisory Committee in February. The additions relate specifically to jobs based in small and medium-sized qualifying companies (between 20 – 250 employees), requiring five or more years' relevant experience and demonstrable experience of having led a team.
- Nurses are being added to the SOL, pending a detailed review of the evidence by the Migration Advisory Committee. This change is being made in advance of the review in view of the potential risks associated with high nursing vacancy rates while the NHS is experiencing winter pressures. If the Committee concludes that there is insufficient evidence to justify the continued inclusion of nurses, they will be removed from the SOL (or any successor mechanism introduced following the Committee's wider review of Tier 2) in a future Statement of Changes. The addition means that nurses will not be subject to the Resident Labour Market Test, will be given higher priority when allocating places in the Tier 2 limit, and will be exempt from the earnings threshold when they apply for settlement (nurses who are currently sponsored in Tier 2 will continue to be exempt from this threshold, even if nurses are removed from the SOL in future).
- In 2012, the Government announced the details of salary requirements which would apply to Tier 2 indefinite leave to remain applications from 6 April 2016, including a salary threshold of £35,000 (rising each year in line with wage inflation). These were set out in Appendix I of the Immigration Rules by Statement of Changes HC 1888, laid before Parliament on 15 March 2012. Due to increased queries relating to these requirements, and to allow them to take effect from 6 April 2016 as planned, the requirements are being moved from Appendix I to Part 6A of the Immigration Rules. Further explanation of how the requirements will operate is also being provided, including details of which jobs have been included on the Shortage Occupation List since 6 April

2011. Migrants who entered Tier 2 from this date and have been sponsored in these jobs will be exempt from the new salary threshold.

- A change is being made to enable entry clearance grants to be post-dated in line with the applicant's stated date of travel to the UK, providing this is no later than 14 days after the start date given by the applicant's Tier 2 Sponsor. This change will give more flexibility to applicants and is designed to make it easier for them to collect their Biometric Residence Permits within the required timescale.
- Amendments are being made to the Shortage Occupation List to consolidate all the requirements relating to previous experience in one place.
- Minor amendments are being made to the provisions for pre-registration candidate nurses and midwives, to reflect changes to the end date of the previous registration programmes overseen by the Nursing and Midwifery Council, and to further clarify the existing salary requirements.
- Amendments are being made to the various provisions in Tier 2 covering maternity, paternity and adoption leave, so that the provisions also cover shared parental leave (as introduced by the Government from 5 April 2015).
- An amendment is being made to the maintenance rules for family members of Tier 2 migrants, so that where the Tier 2 migrant is exempt from having to show maintenance funds by virtue of applying to extend their stay in the same category, their dependants are also exempt, even if they apply at a later date. Previously the exemption only extended to dependants who applied at the same time as the main applicant.
- Minor technical corrections are being made to the operation of the Tier 2 (General) limit.
- Minor technical changes are being made to clarify the 12 months' previous experience requirement for Tier 2 (Intra-Company Transfer) applicants, to reflect that the category is for internationally established companies, and the experience overseas may have been with a business established which is linked by common ownership or control to the Sponsor, rather than the Sponsor itself.
- Tier 2 and 5 Migrants may not be absent from work without pay for 30 days or more in total during any calendar year. Due to continuing requests for clarification, this policy is being amended from 30 days per year to four weeks per year, according to the Tier 2 or 5 Migrant's normal working pattern.

Other changes relating to work routes

7.17. The Representative of an Overseas Business category allows businesses with no UK presence to send employees to the UK to establish a UK branch or subsidiary, or for overseas media organisations to send employees to the UK on long-term

assignments. Administrative changes are being made to the Rules for this category to incorporate existing evidential requirements, which are currently set out in guidance.

7.18. Amendments are being made to clarify that applicants relying on an approved English language test at level A1 of the Council of Europe's Common European Framework for Language Learning are only required to pass the speaking and listening components (and not the reading and writing components which are additionally required for higher levels).

Changes to Tiers 2 and 5 of the Points-Based System relating to sportspersons and coaches

7.19. A definition of “Professional Sportsperson” has been inserted. This will provide clarity as to who is considered to be a “Professional Sportsperson”. It will help customers differentiate more easily between a “Professional Sportsperson” and an “Amateur”.

7.20. A change has been made to the definition of “Amateur” so as to include a person playing or coaching in a charity game.

7.21. A change is being made to apply a condition on all children of a Relevant Points Based System Migrant who are under the age of 18 when they apply, prohibiting them from being employed as a professional sportsperson (including as a sports coach).

7.22. A change is being made to the list of sports governing bodies who may endorse Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting) applications. The endorsements that can be issued by the National Ice Skating Association of Great Britain and Northern Ireland are being expanded to include Tier 2 applications in addition to Tier 5 applications.

7.23. A change is being made to enable applications for entry clearance and leave to remain to be refused under Tier 2 (Sportsperson) and Tier 5 (Temporary Worker – Creative and Sporting) when a valid Governing Body endorsement letter is not provided as part of that application.

7.24. A change is being made to permit sportspersons applying for entry clearance or leave to remain under Tier 2 (Sportsperson) or Tier 5 (Temporary Worker – Creative and Sporting) to compete in British University and College Sport (BUCS) competitions.

Changes to Tier 5 (Youth Mobility Scheme), (Temporary Worker – Government Authorised Exchange) and (Temporary Worker – Charity Worker)

7.25. Tier 5 of the Points-Based System caters for youth mobility and temporary workers coming for primarily non-economic purposes, and consists of two categories: Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Workers). The Temporary Workers category consists of five sub-categories: Creative and Sporting, Charity Workers, Religious Workers, Government Authorised Exchange, and International Agreement. Applicants must have a Tier 5 Sponsor, which is usually their UK

employer. The Government Authorised Exchange category enables people to come to the UK to share knowledge, skills and gain work experience through individual schemes which are administered by an overarching sponsor.

7.26. Under the Government Authorised Exchange category, a minor amendment to the definition of a “training programme” is being made to clarify the paragraph numbers the definition applies to.

7.27. Under the Charity Worker category, we are defining “voluntary fieldwork” to clarify the type of work activities which may be undertaken by users of this category. The rules concerning remuneration of Tier 5 (Charity Worker) migrants are also being amended to clarify that charity workers are not permitted to receive any form of remuneration, including benefits in kind, other than reasonable expenses.

7.28. On the Youth Mobility Scheme, the annual allocations for participating countries on the scheme are being set for 2016. There is an increase in the allocations for Australia (20%) and New Zealand (9%), reflecting the higher number of British participants under those countries’ reciprocal schemes in 2014 than in the previous year.

7.29. Under the Government Authorised Exchange category, the “City Fellowships Scheme”, “EU-China Managers Exchange and Training Programme (METP)”, “Fullbright UK-US Teacher Exchange Programme”, and the “London Organising Committee of the Olympic and Paralympic Olympic Games (LOCOG)” schemes, are being removed as they are all no longer in use.

7.30. The description of the “Chevening Programme” scheme administered by the Association of Commonwealth Universities is being amended to accommodate the Marshall Sherfield Fellowships Programme. This is an annual scheme whereby the Marshall Aid Commemoration Commission awards Marshall Sherfield Fellowships to Scientists and Engineers from the United States of America, in order for them to undertake post-doctoral research at a British Research Institute or University for a period of one to two years.

7.31. The description of the “Hanban: Mandarin Teachers scheme” is being amended to clarify that this research and training scheme can be used by co-directors to manage the programme in the UK and undertake some language teaching if needed.

7.32. A description of the “International Cross-Posting Programme for Kazakhstan” is being inserted to clarify that the purpose of the scheme is to provide an opportunity for key oil workers from Kazakhstan to undertake work experience and training with Shell UK.

7.33. The description of the “International Internship Scheme” administered by Fragomen LLP is being amended to clarify that the scheme is aimed at young people and future business leaders to experience working for a UK company which, as they develop in their careers, may encourage investment into the UK and the forging of international partnerships with multinational companies in the UK and abroad.

Changes relating to family and private life

7.34. The following changes and clarifications are being made to the Immigration Rules relating to family and private life:

- Providing that an EEA national or non-EEA national in the UK with a right of permanent residence here under EU law must hold a valid document which confirms their right of permanent residence, issued under the Immigration (European Economic Area) Regulations 2000 which must be endorsed under the Immigration Rules, or issued under the Immigration (European Economic Area) Regulations 2006, in order to show they meet the requirement of being “present and settled in the UK” for the purposes of an application under the family Immigration Rules.
- Providing that an application for entry clearance as a child will be refused on grounds of suitability where the Secretary of State considers that the applicant’s parent or parent’s partner poses a risk to the applicant.
- Providing that an application for leave to remain as a partner will normally be refused on grounds of suitability if the Secretary of State has given notice to the applicant and their partner under section 50(7)(b) of the Immigration Act 2014 that one or both of them have not complied with the investigation of their proposed marriage or civil partnership.
- Clarifying the requirements for leave to remain and indefinite leave to remain as a partner or parent.
- Amending the evidential requirements for demonstrating the required level of English language speaking and listening skills in an application as a partner or parent to reflect the on-line verification system introduced in April 2015.

Changes to Administrative Review

7.35. Appendix AR of the Immigration Rules sets out the rules for administrative review including the decisions that are eligible for review.

7.36. The purpose of an administrative review is to assess whether the original decision maker reached an incorrect decision on the application, based on the evidence originally supplied with the application. It is not an opportunity for the applicant to rectify omissions in the evidence that was submitted with the original application. Additional evidence may only be submitted in the circumstances set out in paragraph AR2.4 of Appendix AR. Amendments have been made to allow reviewers to request further evidence in additional limited circumstances.

7.37. A decision made on or after 6th April 2015 on an application 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, is an eligible decision for the purpose of administrative review. Such applications may be refused on the grounds that the applicant practiced deception in the current or a previous application. A change has been made to provide for additional evidence to be requested in order to demonstrate that the deception did not occur. This brings such applications in line with applications made under the current Immigration Rules in respect of the ability to supply further evidence in relation to a refusal on deception grounds.

7.38. Under paragraph 245AA of the Immigration Rules, caseworkers may request specified documents in certain limited circumstances which are set out in that paragraph. Such requests are made to correct minor omissions in applications, where the caseworker is satisfied that the evidence exists and the application is otherwise approvable. A change has been made to allow reviewers to request such documents, if the original decision maker's failure to request those documents under paragraph 245AA was a case working error. As at present, evidence will not be requested under administrative review if it was omitted from the original application and could not be requested under the provisions of paragraph 245AA. An applicant who wishes to submit such evidence must submit a fresh initial application.

Changes to Armed Forces

7.39. An amendment to paragraph 63 of Appendix Armed Forces reflects the ability of dependent children, where both their sponsor parent and other parent are exempt from immigration control, to qualify for leave under paragraph 62.

Changes to Knowledge of Language and Life

7.40. Unless exempt, individuals applying for indefinite leave to remain are required to demonstrate their knowledge of language and life in the UK in accordance with the provisions of Appendix KoLL. As part of meeting the requirement they must demonstrate English speaking and listening skills at an intermediate level, equivalent to level B1 on the Common European Framework of Reference for Languages. These changes will now require applicants wishing to demonstrate the required level of English with an English language qualification to have a qualification from the Secure English Language Test list in Appendix O and remove the option of using an alternative English language qualification regulated by one of the UK's statutory regulatory bodies.

7.41. The list of Secure English Language Tests in Appendix O was amended by Statement of Changes HC 1025, laid on 26 February 2015, which statement also provided that these tests must from 6 April 2015 be taken at an approved secure test centre. The April changes followed a tender exercise for inclusion in Appendix O as part of which bidders were required to incorporate additional security features into their booking, administration and invigilation procedures. The changes now made to Appendix KOLL will ensure that the same security features apply to English language qualifications used for indefinite leave as apply to applications for limited leave.

7.42. The intention to make these changes to the requirements for indefinite leave was announced on 23 March 2015. An announcement was included on relevant pages of the GOV.UK website in April 2015. Thus potential applicants have had eight months notice of the impending changes, obviating any need for additional transitional arrangements.

7.43. Additional changes have been made to the evidence requirements for English language to reflect the on line verification system introduced as part of the additional security features for Secure English Language Tests. Applicants are given a unique identifier number when taking the test and must include that number in their

application for leave. Caseworkers use that number to verify the test result directly with the test provider. Individuals are no longer required to submit a test certificate.

Changes to Visitors

7.44. Visitors are permitted to undertake a maximum of 30 days study and 30 days volunteering provided that the main purpose of their visit to the UK is another visitor permitted activity – for instance a holiday or business meetings. The changes clarify the position on visitors’ study and volunteering. Persons who want to come to the UK to study for up to 6 months can apply to do so as a short-term student.

8. Consultation

8.1. The asylum changes to the introduction, Part 9 and Part 11 of the Immigration Rules have not been the subject of a formal public consultation, but the United Nations High Commissioner for Refugees have provided their views on the accompanying guidance on Revocation of Refugee Status. The changes to asylum claims for EU nationals will bring us in line with EU law and involve relatively small numbers of EU nationals.

8.2. There was consultation over the Administrative Review Immigration Rules as laid in October 2014. There has not been any further consultation since then.

8.3. The possibility of requiring applicants for indefinite leave to remain to have a Secure English Language Test was discussed during 2014 as part of the process for procurement of the new list of these tests, including at industry days open to all those test providers who wished to attend.

8.4. The digital technology additions to the Shortage Occupation List were the subject of a Migration Advisory Committee (MAC) review, for which the MAC ran a public call for evidence from 29 September to 5 December 2014. As stated above, nurses are being added to the list in advance of a review. The MAC is expected to launch a public call for evidence shortly.

9. Guidance

9.1. Guidance relating to these rules changes will be updated and placed on the GOV.UK website.

10. Impact

10.1. These changes to the immigration rules will have limited or no impact on business, charities, the public sector or voluntary bodies, such that an impact assessment is unnecessary.

11. Regulating small business

11.1. These changes will have limited or no impact on small businesses.

12. Monitoring and review

12.1. The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any Rules amended or added by the changes in this Statement and lay a report before Parliament within five years of 6 April 2012 and within every five years after that. Following each review the Secretary of State will decide whether the relevant Immigration Rules should remain as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.

13. Contact

13.1. Queries should be directed to the Home Office as per the ‘Contact UKVI’ section on the visas and immigration pages of GOV.UK website at <https://www.gov.uk/government/organisations/uk-visas-and-immigration>.

13.2. Specific written queries relating to this Statement of Changes should be directed to StatementofChanges@homeoffice.gsi.gov.uk. Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.

13.3. A copy of this Statement of Changes can be found on the visa and immigration pages of the GOV.UK website at <https://www.gov.uk/government/collections/immigration-rules-statement-of-changes>.

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