

**1 May 2007      IMMIGRATION DIRECTORATES' INSTRUCTIONS****SECTION CONTENTS****CHAPTER 5 SECTION 14****FRESH TALENT: WORKING IN SCOTLAND SCHEME**

Below is a list of items of guidance on the policy relating to the Fresh Talent: Working in Scotland Scheme. Caseworkers **must** refer to **all** relevant parts of this guidance, including the Immigration Rules, when considering applications.

- 1. BACKGROUND**
- 2. ACADEMIC QUALIFICATION**
  - 2.1 General Requirements**
  - 2.2 Recognised Qualification**
- 3. REQUIREMENT TO HAVE LIVED IN SCOTLAND**
- 4. INTENTION TO SEEK AND TAKE WORK IN SCOTLAND**
- 5. MAINTENANCE AND ACCOMMODATION**
- 6. DATE OF COMPLETION OF STUDIES**
  - 6.1 HND and Undergraduate Degree level students**
  - 6.2 Masters degree, PhD, postgraduate certificate and postgraduate diploma level students**
- 7. INTENTION TO LEAVE THE UNITED KINGDOM**
- 8. CONSENT OF SPONSOR**
- 9. PREVIOUS PERIODS OF LEAVE**
- 10. SWITCHING INTO THE FRESH TALENT: WORKING IN SCOTLAND SCHEME**
- 11. SETTLEMENT**
- 12. THE SCOTTISH EXECUTIVE AND THE RELOCATION ADVISORY SERVICE**
- 13. IMMIGRATION RULES PARAGRAPHS 143A – 143F**
- 14. GRANT PERIODS**
- 15. REFUSAL GUIDANCE – ENTRY CLEARANCE**

**15.1 Refusal Wordings**

**16. REFUSAL GUIDANCE – ON ENTRY**

**16.1 Refusal Wording**

**17. REFUSAL GUIDANCE – EXTENSION OF STAY**

**17.1 Refusal Wordings**

**17.2 Index Code**

## **IMMIGRATION DIRECTORATES' INSTRUCTIONS**

### **CHAPTER 5 SECTION 14**

#### **THE FRESH TALENT WORKING IN SCOTLAND SCHEME**

##### **1. BACKGROUND**

The Fresh Talent: Working in Scotland scheme was launched on 22 June 2005 and applies to overseas students who have been awarded a Higher National Diploma (HND), undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma from a Scottish University. They also have to have lived in Scotland whilst studying.

Participants are granted up to two years leave, during which they can undertake any type of employment (paid or unpaid), self-employment or business in the United Kingdom, without the need for a work permit or other permission from the Home Office. At any time during their leave under the Fresh Talent: Working in Scotland scheme they can switch into leave as a Work Permit holder, Highly Skilled Migrant Programme participant, Business person or Innovator without leaving the United Kingdom. If they do not switch into one of these categories, then they must leave the United Kingdom at the end of the two years. The Fresh Talent: Working in Scotland scheme does not lead to settlement, nor will leave granted under this scheme count towards the qualifying period for settlement in other employment or business routes.

Entry clearance is mandatory for those applying under the Fresh Talent: Working in Scotland scheme, except where the applicant is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British Subject. Those in the United Kingdom with valid leave as a student or an International Graduates Scheme participant can also apply to switch into leave as a Fresh Talent: Working in Scotland scheme participant.

Nationals of Turkey who wish to set up a business under the EC Association Agreement with Turkey should refer to guidance within **Chapter 6, Section 6** of these Instructions.

##### **The Fresh Talent Initiative**

The Fresh Talent: Working in Scotland scheme is part of the Scottish Executive's Fresh Talent Initiative. The Fresh Talent Initiative aims to counter Scotland's falling population by encouraging people to consider living and working in Scotland.

On 25 February 2003, Scotland's First Minister made a speech where he set out his policy to attract "Fresh Talent" to Scotland. A year later, on 25 February 2004, he made a statement to the Scottish Parliament outlining a package of measures for attracting a managed flow of skilled people to Scotland. This included a policy "to allow all overseas students who graduate from Scottish Universities, if they wish to live and work here, to stay an additional two years before residence. That will be in place from summer 2005. They will be allowed to stay in Scotland and seek any type of work during that time. After that, they can switch into other legal migration routes for which they qualify".

##### **2. ACADEMIC QUALIFICATION**

**Below is guidance on the academic qualification necessary to qualify as a Fresh Talent: Working in Scotland scheme participant (refer to paragraph 143A (i) of HC 395)**

## **2.1 General Requirements**

In order to qualify as a Fresh Talent: Working in Scotland scheme participant, applicants must have successfully completed an HND (Higher National Diploma), UK recognised undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma. The qualification can be in any subject.

Higher National Certificates (HNC) will not make an application eligible for the Fresh Talent: Working in Scotland scheme, nor will honorary degrees.

Normally an applicant must submit a genuine HND or degree certificate confirming that he has been awarded the relevant qualification. However, where an applicant wishes to apply from within the UK but will not graduate before the expiry of his leave as a student, he may instead include a letter from his personal tutor at the awarding institution. This must be an original letter (not a photocopy), bear the official stamp of the institution, and confirm that the applicant has successfully completed the relevant course and is awaiting graduation

In all cases the applicant should provide the contact details of his personal tutor, so that this academic record can be verified as necessary.

The qualification must have been awarded by a Scottish educational institution. If there is any doubts as to whether the institution awarding the qualification is based in Scotland, the table in **Part 3 - "Requirement to have lived Scotland"** of this guidance should be referred to.

**Note:** Applicants who apply for leave under the Fresh Talent: Working in Scotland scheme prior to 1 May 2007 will not be considered under the amended Immigration Rules. These applicants will only qualify for leave under the Fresh Talent: Working in Scotland scheme if they have successfully completed a HND, UK recognised undergraduate degree, Master's degree or PhD in the last 12 months.

## **2.2 Recognised Qualification**

Applicants applying for the Fresh Talent: Working in Scotland scheme on the basis of an undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma must have been awarded a UK recognised qualification. This does not apply to those who have awarded HND qualifications. A recognised UK qualification means that the awarding body is recognised by the UK authorities.

Institutions which have been granted degree awarding powers by either a Royal Charter or an Act of Parliament are **recognised bodies**. All UK universities and some higher education colleges are recognised bodies. Other institutions, which do not have the power to award their own degrees, may provide courses which lead to a degree of a recognised body. These are known as **listed bodies**. Caseworkers should check that the institution which issued the qualification is either a recognised body or a listed body.

Further information on both recognised bodies and listed bodies can be found on the DfES website at:

<http://www.dfes.gov.uk/recognisedukdegrees/>

The list of **recognised bodies** is available here:

<http://www.dfes.gov.uk/recognisedukdegrees/index.cfm?fuseaction=institutes.list&InstituteCategoryID=1>

Details of the **listed bodies** are available here:

<http://www.dfes.gov.uk/recognisedukdegrees/index.cfm?fuseaction=institutes.list&InstituteCategoryID=2>

Note that the recognised bodies and listed bodies on the DfES website are also set out in Statutory Instruments (SIs). The SIs on the DfES website include the recognised and listed bodies for Scotland, although the SI itself relates to England only.

The equivalent Scottish recognised bodies order is available at:

[www.opsi.gov.uk/legislation/scotland/ssi2005/ssi\\_20050591\\_en.pdf](http://www.opsi.gov.uk/legislation/scotland/ssi2005/ssi_20050591_en.pdf)

The equivalent Scottish listed bodies order is available at:

[www.opsi.gov.uk/legislation/scotland/ssi2005/ssi\\_20050592\\_en.pdf](http://www.opsi.gov.uk/legislation/scotland/ssi2005/ssi_20050592_en.pdf)

For caseworkers to be certain that a degree course isn't recognised in the UK (having checked that the institution providing the course is not listed in the Recognised or Listed Bodies Orders), they will need to make further enquiries with the institution providing such a degree/degree course. Successful applicants to the Fresh Talent: Working in Scotland scheme must have been awarded their qualification by a relevant Scottish institution. Therefore the awarding institution should be either a recognised body or a listed body in the UK. If it appears that a Scottish institution is awarding the qualification, but that most of the study takes place at a non-Scottish institution, caseworkers are recommended to confirm with the Scottish institution that they are awarding the qualification and also to check that they are listed in the relevant Statutory Instrument as a recognised body.

### **3. REQUIREMENT TO HAVE LIVED IN SCOTLAND**

**Below is guidance on the requirement to have lived in Scotland, in order to qualify as a Fresh Talent: Working in Scotland scheme participant (refer to paragraph 143A (ii) of HC 395).**

An applicant should submit details of where they have lived in Scotland during their studies. This should include the postcode of their address or addresses of stay. The following postcodes fall into Scotland:

Aberdeen AB

Dumfries DG

Dundee DD

Edinburgh EH

Falkirk	FK
Galashiels	TD
Glasgow	G
Inverness	IV
Kilmarnock	KA
Kirkcaldy	KY
Kirkwall	KW
Motherwell	ML
Outer Hebrides	HS
Paisley	PA
Perth	PH
Shetland/Lerwick	ZE

The applicant does not need to have lived in Scotland throughout the entire period of their study. It is reasonable to expect that an overseas student may have returned to their country or origin during their vacations. Students may have also spent a period studying or working abroad during their studies.

Applicants should have lived in Scotland for an appropriate period of time. The suitability of the period of time spent living in Scotland should be assessed by the caseworker on the facts of each application, but the following should be used as general guidance:

- For courses lasting one academic year, the student can normally be expected to have lived in Scotland for at least 3 months.
- For courses lasting two academic years, the student can normally be expected to have lived in Scotland for at least 6 months.
- For courses lasting three academic years, the student can normally be expected to have lived in Scotland for at least 12 months.

#### **4. INTENTION TO SEEK AND TAKE WORK IN THE UNITED KINGDOM.**

**Below is guidance on the requirement that Fresh Talent: Working in Scotland scheme participants intend to seek and take employment in the United Kingdom (refer to paragraph 143A (iii) of HC 395).**

The aim of the Fresh Talent: Working in Scotland scheme is to enable overseas student who have studied in Scotland to pursue their career in Scotland.

Paragraph 135O (ii) requires that a participant "intends to seek and take employment in Scotland during the period for which leave is granted under this paragraph".

Fresh Talent: Working in Scotland scheme participants can take up any type of employment (paid or unpaid), self employment or business. During their leave on the scheme they do not need to obtain a work permit or any other permission from the Home Office for their employment, self employment or business.

We do advise applicants to do some planning for how they are going to find employment or self employment if granted leave under the scheme. Some applicant's may have a job offer arranged but this is not a requirement in order to be granted leave. Nor do applicants need to submit details of their planning to find employment or self employment in the United Kingdom.

If applicants have confirmed on the application form that they intend to seek and take employment in the United Kingdom during any leave granted under this scheme, then this will be sufficient to demonstrate that they meet the requirement of the Rules.

## 5. MAINTENANCE AND ACCOMMODATION

**Below is guidance on the requirement that Fresh Talent: Working in Scotland scheme participants can maintain and accommodate themselves and any dependants adequately without recourse to public funds (refer to paragraph 143A (iv) of HC 395).**

Applicants are required to show that they can maintain and accommodate themselves without recourse to public funds. They do not need to have a firm job offer, but can use leave granted under this scheme to seek work.

When assessing whether the applicant is able to maintain and accommodate himself in the United Kingdom while seeking employment, consideration should be give to all relevant factors such as cash resources and the level of planning they have undertaken to find employment. Those applicants who can demonstrate that they have a firm or tentative job offer or contract will require a smaller cash reserve as they will be able to start earning immediately.

The applicant should have already assessed their potential living costs. These should be reasonable and tie into past living expenses. It should be noted that successful applicants will have lived in the United Kingdom whilst studying. Therefore they should be aware of the funds they need to support themselves while seeking employment.

If the applicant is applying to bring any dependant family with them to Scotland, the applicant must demonstrate that they are able to maintain and accommodate themselves and all their dependants here. Accommodation must be adequate. Further information on maintenance and accommodation of dependants, including legal occupation and overcrowding can be found **in Chapter 8, Section 1, Annex F** of these Instructions.

## 6. DATE OF COMPLETION OF STUDIES

**Below is guidance on the date of completion of studies (refer to paragraph 143A (v) of HC 395).**

Paragraph 143A (v) of HC 395 specifies that a successful applicant must have “completed his HND, undergraduate degree, Master’s degree, PhD, postgraduate certificate or postgraduate diploma in the last 12 months.” This means that student’s who wish to

participate in the Fresh Talent: Working in Scotland scheme have a year from the completion of their studies during which to apply for the scheme.

### **6.1 HND and Undergraduate Degree level students**

Students who have studied at HND or undergraduate degree level and who are applying to participate in the scheme some time after they complete their degree should be able to produce a degree certificate with a date of graduation on it, and this date should normally be taken as the date of completion of studies. However, if an application is considered prior to the applicant graduating, completion of the qualification will be shown by written evidence from the educational establishment to confirm when the course was successfully completed.

### **6.2 Masters degree, PhD, postgraduate certificate and postgraduate diploma level students**

Masters, PhD, postgraduate certificate and postgraduate diploma students often complete their courses by completing a satisfactory project or piece of research, and are normally granted sufficient leave as a student for this work to be accomplished. In these cases, the date of completion of studies will be the date the student leave expires. In exceptional circumstances they may be granted further leave to remain in order to write-up their projects (under paragraph 69G of HC 395). The date of their "completion of studies" is taken as the date that their leave as a student/leave to write up a project expires.

## **7. INTENTION TO LEAVE THE UNITED KINGDOM**

**Below is guidance on where Fresh Talent: Working in Scotland scheme participants must intend to leave the United Kingdom (refer to paragraph 143A (vi) of HC 395).**

Leave granted under the Fresh Talent: Working in Scotland scheme does not lead to settlement. However, the Immigration Rules do enable Fresh Talent: Working in Scotland scheme participants to switch into the following categories of leave in the United Kingdom:

- Work permit employment, in accordance with paragraphs 128 – 135 of the Immigration Rules.
- The Highly Skilled Migrant Programme, in accordance with paragraphs 135A – 135H of the Immigration Rules.
- Persons intending to establish themselves in business, in accordance with paragraphs 200 – 210.
- Innovator, in accordance with paragraphs 210A – 210H of the Immigration Rules.

Fresh Talent: Working in Scotland scheme participants may switch into one of these four categories of leave at any time during their stay in the United Kingdom.

If they do not switch into one of these categories of leave, participants must leave the UK on expiry of their leave under the Fresh Talent: Working in Scotland scheme.

The Immigration Rules only enable Fresh Talent: Working in Scotland scheme participants to switch into leave as a work permit holder where they hold a valid work permit for employment in Scotland.

Turkish nationals who have been working lawfully in the UK for one employer for at least a year, and who do not qualify for an extension of stay under the Immigration Rules, may be eligible for leave under the EC/Turkish Association Agreement and should refer to the



guidance in **Chapter 5** of these instructions.

## 8. CONSENT OF SPONSOR

**Below is guidance on the requirement that relevant Fresh Talent: Working in Scotland scheme participants have the consent of their sponsor to switch into this scheme (refer to paragraph 143A (vii) of HC 395).**

If the qualification forming the basis of the application under the Fresh Talent: Working in Scotland scheme, or any subsequent studies the applicant has undertaken, have been sponsored by a government or an international scholarship agency the consent of that sponsor **must** be submitted for the applicant to become an Fresh Talent: Working in Scotland scheme participant.

If a relevant sponsor consents to the applicant participating in the Fresh Talent: Working in Scotland scheme, but only for a limited time, then leave should be granted in line with the consent. Fresh consent should be submitted if the applicant subsequently applies for an extension of stay in this category.

Consent will need to be obtained if a Fresh Talent: Working in Scotland scheme participant applies to switch into a category of leave which leads to settlement. This is to ensure that leave is granted in line with the consent of the relevant sponsor. The sponsor may be content for the applicant to gain work experience in the United Kingdom but not to work here permanently, as the studies may have been sponsored with the express purpose that the individual gains skills which they can use overseas. A fresh consent letter will not be necessary for switching applications where the relevant sponsor has initially given their express consent for the applicant to switch in the Fresh Talent: Working in Scotland scheme and for any subsequent applications to remain in the United Kingdom.

## 9. PREVIOUS PERIODS OF LEAVE

**Below is guidance on the previous periods of leave (refer to paragraph 143A (viii) and 143D (iii) of HC 395).**

All periods of leave granted as a Fresh Talent: Working in Scotland scheme participant, Science and Engineering Graduates scheme participant or International Graduates scheme participant must be amalgamated when considering how much leave an applicant qualifies for. The maximum they can be granted under the Fresh Talent: Working in Scotland scheme (taking into account previous periods of leave granted under Fresh Talent: Working in Scotland Scheme **and** previous periods of leave granted under the Science and Engineering Graduate scheme and the International Graduates scheme) is two years.

This means that an overseas national can be granted leave as a Fresh Talent: Working in Scotland scheme participant for a year, and may subsequently be granted a fresh period of leave as a student to continue their studies in Scotland. If they qualify for the Fresh Talent: Working in Scotland scheme at the end of this second period of study, they will be eligible for a maximum of a further one year of leave as a Fresh Talent: Working in Scotland scheme participant assuming they have never been granted leave as a Science and Engineering Graduate scheme participant or as an International Graduates scheme participant.

This also means that an applicant can be granted two years leave as a Fresh Talent: Working in Scotland scheme participant and subsequently a fresh period or leave as a student. However, even if they meet all the other requirements of the Fresh Talent: Working in Scotland scheme they will not be eligible for any further leave under the Fresh Talent: Working in Scotland scheme because they have already been granted the maximum possible leave in this category.

It is the amount of leave granted as a Fresh Talent: Working in Scotland scheme participant that should be used for calculating an applicant's eligibility for leave, and not the amount of time they have spent in the UK. This is due to the difficulties in assessing how much time an applicant has spent in the UK during their leave in this category.

### **International Graduates Scheme**

The aim of the Fresh Talent: Working in Scotland scheme is to allow these overseas students two years to pursue their career in Scotland without the need to obtain a work permit. The aims of the International Graduates scheme are similar in that they enable graduates to pursue their career in the UK for one year without the need to obtain a work permit. Therefore if an applicant has already been granted one years' leave under the International Graduates scheme, they will only be eligible for a further 12 months of leave under the Fresh Talent: Working in Scotland scheme.

## **10. SWITCHING INTO THE FRESH TALENT: WORKING IN SCOTLAND SCHEME**

**Below is guidance on who is eligible to switch in to leave as a Fresh talent: Working in Scotland scheme participant from within the United Kingdom (refer to paragraph 143D (ii) of HC 395).**

The aim of the Fresh Talent: Working in Scotland scheme is to give overseas students who have studied in Scotland the opportunity to pursue their career in Scotland for up to two years following the successful completion of their studies. Therefore the normal entry clearance requirement is waived for those who are currently in the UK with valid leave as a student under paragraph 62 – 69L of the Immigration Rules. These apply to those in the UK with valid leave:

- as a student (paragraphs 57 – 62)
- as a student nurse (paragraphs 63 – 69)
- to re-sit examinations (paragraph 69A – 69F)
- to write up a thesis (paragraphs 69G – 69L)

The entry clearance requirement is waived for those who are currently in the UK with valid leave as an International Graduates scheme participant or Science and Engineering Graduate scheme under paragraphs 135O – 135T of the Immigration Rules.

Applicants who are in the UK with any other category of leave will not qualify to switch into leave as a Fresh Talent: Working in Scotland scheme participant whilst in the UK. Any applications from such a person should be refused on no-switching grounds as the requirements of paragraphs 143A are not met.

## **11. SETTLEMENT**

The Fresh Talent: Working in Scotland scheme is not a category which leads to settlement.

There are no provisions for participants to be granted settlement on the basis of the scheme, although it may of course be granted if participants qualify under another category of the Rules or under a concession.

If a Fresh Talent: Working in Scotland scheme participant subsequently switches into leave in a category which does not lead to settlement, then the period of leave spent as a Fresh Talent: Working in Scotland scheme participant will **not** count towards the qualifying period for settlement in that category. This will be the case regardless of what employment or self-employment the individual has carried out during their leave as a participant in the Fresh Talent: Working in Scotland scheme.

## **12. THE SCOTTISH EXECUTIVE AND THE RELOCATION ADVISORY SERVICE**

**Below is guidance on the role of the Scottish Executive and the Relocation Advisory Service (RAS) in the Fresh Talent: Working in Scotland scheme.**

The Fresh Talent: Working in Scotland scheme is one part of the Scottish Executive's Fresh Talent Initiative. The Fresh Talent Initiative encourages people to consider living and working in Scotland, as well as supporting efforts to retain indigenous people who wish to begin, or to further, their careers in Scotland.

As part of the Fresh Talent Initiative, the Scottish Executive launched their Relocation Advisory Service (RAS) on Tuesday 11 January 2005. This has been designed as a one-stop advisory service and will provide basic advice on applying for immigration leave, advice on setting up businesses and advice on jobs, schools, housing and transport for those considering relocating to Scotland.

Fresh Talent: Working in Scotland scheme participants should be encouraged to contact the RAS and to maintain contact with it. The RAS will not only provide advice on a range of issues connected to living and working in Scotland but can also help to build and maintain links with other overseas nationals living in Scotland.

The Scottish Executive monitor the Fresh Talent: Working in Scotland scheme. This is to assess whether it is effective in encouraging overseas students to pursue their career in Scotland and whether being a participant in the scheme has helped participants in pursuing their careers in Scotland. As part of this, the details of Fresh Talent: Working in Scotland scheme participants will be passed to the Scottish Executive. The Scottish Executive will collect information from participants to ensure that the scheme is meeting their needs. This information will be used to compile reports on the scheme. Some reports will be published on the Scottish Executive's website. These reports are compiled for monitoring purposes only and will not identify individual Fresh Talent: Working in Scotland scheme participants.

Further information on the Relocation Advisory, including contact details, can be found at [www.scotlandistheplace.com](http://www.scotlandistheplace.com)

## **13. IMMIGRATION RULES - PARAGRAPHS 143A - 143F**

**Requirements for leave to enter the United Kingdom as a Fresh Talent: Working in Scotland scheme participant**

143A. The requirements to be met by a person seeking leave to enter as a Fresh Talent: Working in Scotland scheme participant are that the applicant:

(i) has been awarded:

(a) an HND, by a Scottish publicly funded institution of further or higher education, or a Scottish bona fide private education institution; or

(b) a recognised UK undergraduate degree, Master's degree or PhD or postgraduate certificate or diploma, by a Scottish education institution which is a recognised or listed body; and

(ii) has lived in Scotland for an appropriate period of time whilst studying for the HND, undergraduate degree, Master's degree, PhD, postgraduate certificate or diploma referred to in (i) above; and

(iii) intends to seek and take employment in Scotland during the period of leave granted under this paragraph; and

(iv) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and

(v) has completed the HND, undergraduate degree, Master's degree, PhD, postgraduate certificate or diploma referred to in (i) above in the last 12 months; and

(vi) intends to leave the United Kingdom if, on expiry of his leave under this paragraph, he has not been granted leave to remain in the United Kingdom as:

(a) a work permit holder in accordance with paragraphs 128 - 135 of these Rules; or

(b) under the highly skilled migrant programme in accordance with paragraphs 135A - 135H of these Rules; or

(c) a person intending to establish themselves in business in accordance with paragraphs 200 - 210 of these Rules; or

(d) an innovator in accordance with paragraphs 210A - 210H of these Rules; and

(vii) has the written consent of his official sponsor to enter or remain in the United Kingdom as a Fresh Talent: Working in Scotland scheme participant, if the studies which led to his qualification under (i) above (or any studies he has subsequently undertaken) were sponsored by a government or international scholarship agency; and

(viii) if he has previously been granted leave as either:

(a) a Fresh Talent: Working in Scotland scheme participant in accordance with this paragraph; and/or

(b) a participant in the International Graduates Scheme in accordance with paragraphs 135O - 135T of these Rules is not seeking leave to enter under this paragraph which, when amalgamated with any previous periods of leave granted in either of these two categories, would total more than 24 months; and

(ix) holds a valid entry clearance for entry in this capacity except where he is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British

protected person or a person who under the British Nationality Act 1981 is a British subject.

**Leave to enter as a Fresh Talent: Working in Scotland scheme participant**

143B. A person seeking leave to enter the United Kingdom as a Fresh Talent: Working in Scotland scheme participant may be admitted for a period not exceeding 24 months provided the Immigration Officer is satisfied that each of the requirements of paragraph 143A is met.

**Refusal of leave to enter as a Fresh Talent: Working in Scotland scheme participant**

143C. Leave to enter as a Fresh Talent: Working in Scotland scheme participant is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 143A is met.

**Requirements for an extension of stay as a Fresh Talent: Working in Scotland scheme participant**

143D. The requirements to be met by a person seeking an extension of stay as a Fresh Talent:

Working in Scotland scheme participant are that the applicant:

- (i) meets the requirements of paragraph 143A (i) to (vii); and
- (ii) has leave to enter or remain in the United Kingdom as either:
  - (a) a student in accordance with paragraphs 57 - 69L of these Rules; or
  - (b) a participant in the International Graduates Scheme in accordance with paragraphs 135O - 135T of these Rules; or
  - (c) a Fresh Talent: Working in Scotland scheme participant in accordance with paragraphs 143A - 143F of these Rules; and
- (iii) if he has previously been granted leave as either:
  - (a) a Fresh Talent: Working in Scotland scheme participant in accordance with paragraphs 143A - 143F of these Rules; and/or
  - (b) a International Graduates Scheme participant in accordance with paragraphs 135O - 135T of these Rules is not seeking leave to remain under this paragraph which, when amalgamated with any previous periods of leave granted in either of these two categories, would total more than 24 months.

**Extension of stay as a Fresh Talent: Working in Scotland scheme participant**

143E. An extension of stay as a Fresh Talent: Working in Scotland scheme participant may be granted for a period not exceeding 24 months if the Secretary of State is satisfied that each of the requirements of paragraph 143D is met.

**Refusal of an extension of stay as a Fresh Talent: Working in Scotland scheme participant**

143F. An extension of stay as a Fresh Talent: Working in Scotland scheme participant is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 143D is met.

#### 14. GRANT PERIODS

Leave can be granted as a Fresh Talent: Working in Scotland scheme participant when **all** the requirements of paragraph 143A (leave to enter) or 143D (extension of stay) of the Immigration Rules are met. The Immigration Rules and associated guidance must be referred to when considering applications. Provided that none of the general grounds for refusal set out in **Chapter 9** of these Instructions apply, leave may be granted as set out in the table below.

Those seeking to enter the United Kingdom on the basis of leave to enter previously granted as an entry clearance should be admitted unless there are grounds of cancellation under 321A of the Immigration Rules.

Leave should be granted on **Code 1**. The indacs code for after entry grants under the Fresh Talent: Working in Scotland scheme is **F6** "Permit Free Employment - Extension other employment".

In this table the Fresh Talent: Working in Scotland scheme is referred to as FT:WISS, the International Graduates Scheme is referred to as IGS and the Science and Engineering Graduate scheme is referred to as SEGS

Stage	Applicant	Grant of Leave	Notes
Entry Clearance	Never been granted leave under FT: WISS, IGS or SEGS	2 years	
Entry Clearance	Previously been granted leave under FT:WISS. Never granted leave under IGS or SEGS	To complete 2 years in total under FT:WISS	
Entry Clearance	Previously been granted 1 years' leave under IGS or SEGS. Never been granted leave under FT:WISS	1 year	
On Entry	British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person	6 Months	Entry Clearance is mandatory for all others

	who under the British Nationality Act 1981 is a British subject		
After Entry	Has valid leave as a student. Never been granted leave under FT: WISS, IGS or SEGS	2 years	
After Entry	Has valid leave as a student. Has previously been granted leave under FT:WISS. Never been granted leave under IGS or SEGS	Up to 2 years, less previous leave granted under FT:WISS. So if 1 year has previously been granted under FT:WISS, grant 1 further year	
After Entry	Has valid leave as a student Has previously been granted leave under IGS or SEGS. Never granted leave under FT:WISS	1 year (if 1 year was granted under IGS)	
After Entry	Has valid leave of 1 year under IGS or SEGS. Never been granted leave under FT:WISS	1 year	
After Entry	Has valid leave under IGS or SEGS. Has previously been granted leave under FT:WISS	To complete 24 months when leave under FT:WISS and IGS is combined.	
After Entry	Has valid leave under FT:WISS.  Amalgamated leave under FT:WISS, IGS and SEGS is less than 24 months	To complete 24 Months when leave under FT:WISS, IGS or SEGS is combined.	

Foreign nationals aged 16 and over, who are required to register under the Police Registration Scheme, should be required to register with the police if they are being granted leave to enter for longer than six months or leave to remain which will mean their stay in the United Kingdom will exceed six months. Further advice on Police registration can be found in **Chapter 10** of these Instructions.

## 15. REFUSAL GUIDANCE - ENTRY CLEARANCE

The requirements to be met by a person seeking to enter the UK as a Fresh Talent: Working in Scotland scheme participant are set out in paragraph 143A of HC 395. Entry Clearance should be refused if **all** the requirements or paragraph 143A are not met.

Paragraph 320 of the Immigration Rules sets out the general grounds on which entry clearance can be refused. Further guidance on refusing an entry clearance can be found in **Chapter 9, Section 2** of these Instructions. This guidance and the relevant Rules **must** be referred to when considering refusing entry clearance.

### 15.1 Refusal Wordings

The following are examples of refusal wordings. Caseworkers should note that this is **not** an exhaustive list of all possible refusal formulae.

- You have applied for entry clearance to the United Kingdom as a Fresh Talent: Working in Scotland scheme participant but your application has been refused.

**Applicant has not been awarded their HND by a relevant Scottish institution**

In view of the fact that [...] the Secretary of State is not satisfied that you have been awarded a HND by a Scottish publicly funded institution of further or higher education, or a Scottish bona fide private education institution which maintains satisfactory records of enrolment and attendance.

**Paragraph 143C with reference to 143A (i)(a)**

**Applicant has not been awarded a recognised UK undergraduate degree, Master's degree, PhD, or postgraduate certificate or postgraduate diploma**

In view of the fact that [...] the Secretary of State is not satisfied that your undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma is UK recognised.

**Paragraph 143C with reference to 143A (i)(b)**

**Applicant has not lived in Scotland for an appropriate period of time whilst studying.**

In view of the fact that [...] the Secretary of State is not satisfied that you have lived in Scotland for an appropriate period of time whilst studying for your HND, undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma.

**Paragraph 143C with reference to 143A (ii)**

**Applicant does not intend to seek and take work in Scotland**

In view of the fact that [...] the Secretary of State is not satisfied that you intend to seek and take work in Scotland during any period of leave granted as a Fresh Talent: Working in Scotland scheme participant

**Paragraph 143C with reference to 143A (iii)**

**Applicant is not able to maintain and accommodate themselves and any dependants without recourse to public funds**

In view of the fact [...] the Secretary of State is not satisfied that you will be able to maintain and accommodate yourself and any dependants adequately without recourse to public funds.

**Paragraph 143C with reference to 143A (iv)**

**Applicant did not complete their qualification in the last 12 months**

In view of the fact that [...] the Secretary of State is not satisfied that you



completed your HND, undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma in the last 12 months.

**Paragraph 143C with reference to 143A (v)**

**Applicant does not intend to leave the UK**

In view of the fact that [...] the Secretary of State is not satisfied that you intend to leave the UK at the end of your stay under the Fresh Talent: Working in Scotland scheme if you are not granted leave under paragraphs 128-135, 135A-135H or 200 - 210H of these Rules.

**Paragraph 143C with reference to 143A (vi)**

**Applicant does not have the written consent of their sponsor**

Your studies have been sponsored by a government or international scholarship agency. In view of the fact that [...] the Secretary of State is not satisfied that you have the written consent of your sponsor to enter the UK as a Fresh Talent: Working in Scotland scheme participant.

**Paragraph 143C with reference to 143A (vii)**

**Applicant has already had the maximum period of leave**

In view of the fact that [...] the Secretary of State is satisfied that you have already been granted the maximum 24 months of leave permitted under the Fresh Talent: Working in Scotland scheme **or** you have already been granted the maximum 24 months of leave permitted under Fresh Talent: Working in Scotland scheme, the Science and Engineering Graduates scheme or International Graduates scheme, when leave in these three categories is amalgamated.

**Paragraph 143C with reference to 143A (viii)**

## **16. REFUSAL GUIDANCE - ON ENTRY**

The requirements to be met by a person seeking to enter the UK as a Fresh Talent: Working in Scotland scheme participant are set out in paragraph 143A of HC 395. Entry clearance should be refused if **all** the requirements of paragraph 143A are not met.

Where a passenger seeking entry in this capacity does not hold a valid United Kingdom entry clearance or visa, he should be refused entry clearance under paragraph 143A (ix) of HC 395.

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, cancellation may only be considered under paragraph 321A of HC 395. This includes cases where entry clearance was obtained as a result of false information or failure to disclose material facts, or circumstances have changed since the entry clearance was granted. It also includes cases where refusal is justified on medical grounds or on the ground that exclusion would be conducive to the public good. Where cancellation of leave is being considered, the relevant paragraphs of the Immigration Rules and **Chapter 9 Section 3A** of these Instructions must be referred to.

In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference **must** be made, before refusal, to **Chapter 1, Section 9**, "Persons returning to resume previous leave".

### **16.1 Refusal Wording**

The following are examples of refusal wordings. Caseworkers should note that this is **not** an exhaustive list of all possible refusal formulae.

- You have applied for leave to enter the United Kingdom as a Fresh Talent: Working in Scotland scheme participant.....

**No entry clearance**

.... but under the Immigration Rules you are required to have a valid entry clearance for this purpose and you have no such entry clearance

**Paragraph 143C with reference to 143A (ix)**

## **17. REFUSAL GUIDANCE - EXTENSION OF STAY**

The requirements to be met by a person seeking an extension of stay as a Fresh Talent: Working in Scotland scheme participant are set out in paragraph 143D of HC 395. Leave to remain should be refused if **all** the requirements of paragraph 143D are not met.

Paragraph 322 of the Immigration Rules sets out general grounds for refusing any application for leave to remain. This includes cases where the applicant has made false declarations to obtain their previous period of leave or has failed to comply with the conditions of their previous period of leave. Where refusal is being considered for any of these reasons **paragraph 322** of the Immigration Rules and **Chapter 9, Section 4** of these Instructions **must** be referred to.

**Chapter 9, Section 1 "Adverse decisions - General guidance"** provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

### **17.1 Refusal Wordings**

The following are examples of refusal wordings. Caseworkers should note that this is **not** an exhaustive list of all possible refusal formulae.

Details of Appeal rights can be found in Chapter 12 of these Instructions.

- You have applied for an extension of stay in the United Kingdom as an Fresh Talent: Working in Scotland scheme participant but your application had been refused.

**Applicant has not been awarded their HND by a relevant Scottish institution**

In view of the fact that [...] the Secretary of State is not satisfied that you have been awarded a HND by a Scottish publicly funded institution of further or higher education, or a Scottish bona fide private education institution which maintains satisfactory records of enrolment and attendance.

**Paragraph 143F with reference to 143D (i) and 143A (i)(a)**

**Applicant has not been awarded a recognised UK undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma**

In view of the fact that [...] the Secretary of State is not satisfied that your

undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma is UK recognised.

**Paragraph 143F with reference to 143D (i) and 143A (i)(b)**

**Applicant has not lived in Scotland for an appropriate period of time whilst studying.**

In view of the fact that [...] the Secretary of State is not satisfied that you have lived in Scotland for an appropriate period of time whilst studying for your HND, undergraduate degree, Master's degree, PhD, postgraduate certificate or postgraduate diploma.

**Paragraph 143F with reference to 143D (i) and 143A (ii)**

**Applicant does not intend to seek and take work in Scotland**

In view of the fact that [...] the Secretary of State is not satisfied that you intend to seek and take work in Scotland during any period of leave granted as a Fresh Talent: Working in Scotland scheme participant

**Paragraph 143F with reference to 143D (i) and 143A (iii)**

**Applicant is not able to maintain and accommodate themselves and any dependants without recourse to public funds**

In view of the fact [...] the Secretary of State is not satisfied that you will be able to maintain and accommodate yourself and any dependants adequately without recourse to public funds.

**Paragraph 143D with reference to 143D (i) and 143A (iv)**

**Applicant did not complete their qualification in the last 12 months**

In view of the fact that [...] the Secretary of State is not satisfied that you completed your HND, undergraduate degree, Master's degree, PhD or postgraduate certificate or postgraduate diploma in the last 12 months.

**Paragraph 143F with reference to 143D (i) and 143A (v)**

**Applicant does not intend to leave the UK**

In view of the fact that [...] the Secretary of State is not satisfied that you intend to leave the UK at the end of your stay under the Fresh Talent: Working in Scotland scheme if you are not granted leave under paragraphs 128-135, 135A-135H or 200 - 210H of these Rules.

**Paragraph 143F with reference to 143D (i) and 143A (vi)**

**Applicant does not have the written consent of their sponsor**

Your studies have been sponsored by a government or international scholarship agency. In view of the fact that [...] the Secretary of State is not satisfied that you have the written consent of your sponsor to enter the UK as a Fresh Talent: Working in Scotland scheme participant.

**Paragraph 143F with reference to 143D (i) and 143A (vii)**

**Applicant does not have leave as a student, as a participant in the Science and Engineering Graduate scheme, the International Graduates scheme or as a Fresh Talent: Working in Scotland scheme participant**

In view of the fact [...] the Secretary or State is not satisfied that you have limited leave to enter or remain in the United Kingdom as a student in accordance with paragraphs 57-69L of these Rules **or** as a participant in the Science and Engineering Graduates scheme/International Graduates scheme in accordance with paragraphs 135O-135T of these Rules **or** as a Fresh

Talent: Working in Scotland scheme participant in accordance with paragraphs 143A-143F of these Rules.

**Paragraph 143F with reference to 143D (ii)**

**Applicant has already had the maximum period of leave**

In view of the fact that [...] the Secretary of State is satisfied that you have already been granted the maximum 24 months of leave permitted under the Fresh Talent: Working in Scotland scheme **or** you have already been granted the maximum 24 months of leave permitted under Fresh Talent: Working in Scotland scheme, the Science and Engineering Graduates scheme or International Graduates scheme, when leave in these three categories is amalgamated.

**Paragraph 143F with reference to 143D (iii)**

**17.2 Indecs Code**

The indecs code for after entry refusals under the Fresh Talent: Working in Scotland scheme is **F9** "Permit Free Employment - Refusal"