

# STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 18 March 2010 under section 3(2) of  
the Immigration Act 1971*

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*(This document is accompanied by an Explanatory Memorandum)*

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## STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the Rules laid down by him as to the practice to be followed in the administration of the Immigration Act 1971 for regulating entry into and the stay of persons in the United Kingdom and contained in the Statement laid before Parliament on 23 May 1994 (HC 395) as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (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), April 2009 (HC 413), 9 September 2009 (Cm 7701), 23 September 2009 (Cm 7711), 10 December 2009 (HC 120) and 10 February 2010 (HC 367).

The changes in this Statement shall take effect on 6 April 2010, excepting paragraphs 5, 6, 7, 52 and 53 which shall take effect on 7 April 2010. However, if an applicant has made an application for entry clearance or leave to enter or remain before 6 April and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 5 April 2010 or in the case of paragraphs 5, 6, 7, 52 and 53 on 6 April.

1. In paragraph 6, in the definition of “foundation degree”, after “...qualification awarded by” delete “a UK higher education institution with degree awarding powers which is at a minimum of level 5 on the revised National Qualifications Framework, or level 8 on the Scottish Credit and Qualifications Framework.” and substitute with: “an English higher education institution with degree awarding powers which is at a minimum of level 5 on the revised National Qualifications Framework, or awarded on a directly equivalent basis in the devolved administrations.”.
2. In paragraph 6, after the definition of “foundation degree” add:  
“A **“UK recognised body”** is an institution that has been granted degree awarding powers by either a Royal Charter, an Act of Parliament or the Privy Council.  
A **“UK listed body”** is an institution that is not a UK recognised body but which provides full courses that lead to the award of a degree by a UK recognised body.”
3. In paragraph 6, delete the definition of “Employment as a Doctor in Training” and substitute:  
“**“Employment as a Doctor or Dentist in Training”** means employment in a medical post or training programme which has been approved by the Postgraduate Medical Education and Training Board, or employment in a postgraduate training programme in dentistry.”
4. In paragraph 6, after the definition of “A-rated Sponsor” add:  
“Under Part 6A of these Rules, **“Highly Trusted Sponsor”** means a sponsor which is recorded as being “Highly Trusted” on the register of licensed sponsors maintained by the United Kingdom Border Agency.
5. In paragraph 33B, delete sub-paragraph (a) and substitute:  
“(a) (i) he has attended an ESOL course at an accredited college;  
(ii) the course used teaching materials derived from the document entitled “Citizenship Materials for ESOL Learners” (ISBN 1-84478-5424);  
(iii) he has demonstrated relevant progress in accordance with paragraph 33F; and  
(iv) he has attained a relevant qualification.”
6. Delete paragraph 33C and substitute:  
“33C In these Rules, an “accredited college” is:  
(a) a publicly funded college that is subject to inspection by the Office for Standards in Education, Children’s Services and Skills (if situated in England), the Education and Training Inspectorate (if situated in Northern Ireland), Her Majesty’s Inspectorate of Education (if situated in Scotland), Estyn (if situated in Wales); or an inspection programme that has been approved by the Island’s Government (if situated in the Channel Islands or Isle of Man); or

- (b) a private college that has been accredited by Accreditation UK, The British Accreditation Council (BAC), the Accreditation Body for Language Services (ABLS), the Accreditation Service for International Colleges (ASIC).

33D In these rules, a “relevant qualification” is –

- (a) an ESOL qualification in speaking and listening which is awarded or authenticated by a body which is recognised by the Office of Qualifications and Examinations Regulation (Ofqual) under section 132 of the Apprenticeships, Skills, Children and Learning Act 2009 and is determined by Ofqual as being at Entry Level; or
- (b) one National Qualifications Unit in ESOL at Access 2, Access 3 or Intermediate 1 Level approved by the Scottish Qualifications Authority.

33E In these rules, a “suitably qualified person” is a person who is deemed suitably qualified by the institution in which the assessment is undertaken.

33F An applicant has “demonstrated relevant progress” if he meets the requirements of paragraphs 33F (a) or (b).

- (a) The requirements in respect of a relevant qualification awarded or authenticated by a body which is recognised by Ofqual under section 132 of the Apprenticeships, Skills, Children and Learning Act 2009, are that the applicant provides evidence to the Secretary of State that –
  - (i) prior to his commencing a course of study leading to a relevant qualification an ESOL assessment was undertaken by a suitably qualified person to assess his level of English language ability; and
  - (ii) he has successfully completed a course of study leading to a relevant qualification; and
  - (iii) having been assessed in accordance with paragraph (i) as being below Entry 1, he has attained a relevant qualification at Entry 1, 2 or 3; or
  - (iv) having been assessed in accordance with paragraph (i) as being at Entry 1, he has attained a relevant qualification at Entry 2 or 3; or
  - (v) having been assessed in accordance with paragraph (i) as being at Entry 2, he has attained a relevant qualification at Entry 3.
- (b) The requirements in respect of a relevant qualification approved by the Scottish Qualifications Authority are that the applicant provides evidence to the Secretary of State that —
  - (i) prior to his commencing a course of study leading to a relevant qualification an ESOL assessment was undertaken by a suitably qualified person to assess his level of English language ability; and
  - (ii) he has successfully completed a course of study leading to a relevant qualification; and
  - (iii) having been assessed in accordance with paragraph (i) as being below Access 2, he has attained a relevant qualification at Access 2 or 3 or at Intermediate 1 level; or
  - (iv) having been assessed in accordance with paragraph (i) at Access 2, he has attained a relevant qualification at Access 3 or Intermediate 1 level; or
  - (v) having been assessed in accordance with paragraph (i) at Access 3, he has attained a relevant qualification at Intermediate 1 level.”

7. Renumber paragraph 33D as 33G.
8. In the heading above paragraph 144, “Representatives of overseas businesses which have no branch, subsidiary or other representative in the United Kingdom”, delete “which have no branch, subsidiary or other representative in the United Kingdom”.
9. In paragraph 144(i) delete “and which has no branch, subsidiary or other representative in the United Kingdom”.
10. In paragraph 144(ii)(a) after “employee” insert “of an overseas business which has no branch, subsidiary or other representative in the United Kingdom”.
11. In paragraph 195, delete “prohibiting Employment as a Doctor in Training” and substitute:  
“prohibiting Employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System”.
12. In paragraph 196B, delete:  
“If the person is seeking an extension of stay as the spouse or civil partner, of a Highly Skilled Migrant, leave which is granted will be subject to a condition prohibiting Employment as a Doctor in Training, unless the applicant has, or has last been granted, entry clearance, leave to enter or remain (which was

not subject to a condition prohibiting Employment as a Doctor in Training), as the spouse or civil partner, unmarried or same-sex partner of a migrant granted leave under Parts 3, 4, 5 or 6 of these Rules.”

and substitute:

“If the person is seeking an extension of stay as the spouse or civil partner, of a Highly Skilled Migrant, leave which is granted will be subject to a condition prohibiting Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) has, or has last been granted, entry clearance, leave to enter or remain that was not subject to any condition restricting their employment as the spouse or civil partner, unmarried or same-sex partner of a migrant granted leave under Parts 3, 4, 5 or 6 of these Rules, and has been employed during that leave as a Doctor or Dentist in Training.”

13. In paragraph 245AA, after (b) add:

(c) Where Part 6A or Appendices A to C, or E of these Rules refer to the United Kingdom Border Agency guidance, this means guidance published by the United Kingdom Border Agency for use by Sponsors or migrants to ensure compliance with these Rules. If the Sponsor or applicant does not satisfy the requirements set out in guidance and referred to in these Rules, the applicant will not meet the related requirement in these Rules.

14. Delete paragraph 245D and substitute:

“245D. Period and conditions of grant

(a) Entry clearance will be granted for a period of 2 years.

(b) Leave to remain will be granted for a period of 3 years, to an applicant who has, or was last granted, leave:

(i) as a Tier 1 (General) Migrant under the rules in place on or after 6 April 2010,

(ii) as a Highly Skilled Migrant,

(iii) as an Innovator,

(iv) as a Self-Employed Lawyer, or

(vi) as a Writer, Composer or Artist.

(c) In all other cases, leave to remain will be granted for a period of 2 years.

(d) Entry clearance and leave to remain under this route will be subject to the following conditions:

(i) no recourse to public funds,

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

(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) is applying for leave to remain and has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting their employment, and has been employed during that leave as a Doctor or Dentist in Training,

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

15. Delete paragraph 245E(b)(vii) and substitute:

“(vii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, or

(viii) 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 a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or”

16. Delete paragraph 245R(a)(iii) and substitute:

“(iii) no Employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.”

17. Delete paragraph 245T(b)(iii) and substitute:

“(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting their employment, and has been employed during that leave as a Doctor or Dentist in Training.”

18. Delete paragraph 245Y(c) and substitute:

“(c) no Employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.”

19. In paragraph 245Z(f)(vi), after “above“ delete “or”.

20. In paragraph 245Z(f)(vii), after “above” delete “.” and substitute “, or”

21. After paragraph 245Z(f)(vii) insert:

“(viii) as a Postgraduate Doctor or Dentist, provided the applicant has not previously been granted leave as a Tier 1 (Post-Study Work) Migrant or in any of the categories referred to in paragraphs (i) and (ii) above.”

22. Delete paragraph 245ZA(b)(iii) and substitute:

“(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting their employment, and has been employed during that leave as a Doctor or Dentist in Training.”

23. In paragraph 245ZZB(b)(ii)(3) delete “2” substitute with “3”.

24. In paragraph 245ZZD(b)(ii)(3) delete “2” substitute with “3”.

25. After paragraph 245ZD(h) insert:

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

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

26. In paragraph 245ZD renumber subsequent paragraph (i) to (k).

27. Delete paragraph 245ZE and substitute:

“(a) If the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category, entry clearance will be granted for:

(i) a period equal to the length of the period of engagement plus 1 month, or

(ii) a period of 1 year,

whichever is the shorter.

(b) If the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category, entry clearance will be granted for:

(i) a period equal to the length of the period of engagement plus 1 month, or

(ii) a period of 6 months,

whichever is the shorter.

(c) In all other cases, entry clearance will be granted for:

(i) a period equal to the length of the period of engagement plus 1 month, or

(ii) a period of 3 years and 1 month,

whichever is the shorter.

(d) Entry clearance will be granted with effect from 14 days before the date that the Certificate of Sponsorship Checking Service records as the start date for the applicant's employment in the UK, unless entry clearance is being granted less than 14 days before that date, in which case it will be granted with immediate effect.

- (e) Entry clearance will be subject to the following conditions:
  - (i) no recourse to public funds,
  - (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
  - (iii) no employment except:
    - (1) working for the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, subject to any notification of a permissible change to the details of that employment as defined in United Kingdom Border Agency guidance,
    - (2) supplementary employment,
    - (3) voluntary work, and
    - (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.
- (f)
  - (i) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 59 to 84 of Appendix A including points under the intra-company transfer provisions in Table 10 of that Appendix shall be granted entry clearance as a Tier 2 (Intra-Company Transfer) Migrant.
  - (ii) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 59 to 84 of Appendix A but who do not obtain points under the intra-company transfer provisions in Table 10 of that Appendix shall be granted entry clearance as a Tier 2 (General) Migrant.
  - (iii) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 85 to 92 of Appendix A shall be granted entry clearance as a Tier 2 (Minister of Religion) Migrant.
  - (iv) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 93 to 100 of Appendix A shall be granted entry clearance as a Tier 2 (Sportsperson) Migrant.”

28. Delete paragraph 245ZF and substitute:

**“245ZF. Requirements for leave to remain**

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) If the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Established Staff sub-category:
  - (i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as either:
    - (1) a Tier 2 (Intra-Company Transfer) Migrant in the Established Staff sub-category, or
    - (2) a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, or
    - (3) as a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an intra-company transfer, or
    - (4) as a Representative of an Overseas Business, and
  - (ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.
- (c) If the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category:
  - (i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category,
  - (ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.
- (d) If the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category:



- (i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category,
  - (ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.”
- (e) If the applicant is applying for leave to remain as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:
- (i) as a Tier 1 Migrant,
  - (ii) as a Tier 2 (General) Migrant,
  - (iii) as a Tier 2 (Minister of Religion) Migrant,
  - (iv) as a Tier 2 (Sportsperson) Migrant,
  - (v) as a Tier 2 (Intra-Company Transfer) Migrant, providing:
    - (1) the applicant has, or was last granted, entry clearance, leave to enter or leave to remain in the Established Staff sub-category or under the Rules in place before 6 April 2010, and
    - (2) the Sponsor is not the same person who sponsored him when he was last granted leave,
  - (vi) as a Highly Skilled Migrant,
  - (vii) as an Innovator,
  - (viii) as a Jewish Agency Employee,
  - (ix) as a Member of the Operational Ground Staff of an Overseas-owned Airline,
  - (x) as a Minister of Religion, Missionary or Member of a Religious Order,
  - (xi) as an Overseas Qualified Nurse or Midwife,
  - (xii) as a Participant in the Fresh Talent: Working in Scotland Scheme,
  - (xiii) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
  - (xiv) as a Person Writing Up a Thesis,
  - (xv) as a Postgraduate Doctor or Dentist,
  - (xvi) as a Qualifying Work Permit Holder,
  - (xvii) as a Representative of an Overseas Business
  - (xviii) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
  - (xix) as a Student,
  - (xx) as a Student Re-Sitting an Examination,
  - (xxi) as a Student Nurse,
  - (xxii) as a Student Union Sabbatical Officer,
  - (xxiii) as a Tier 4 Migrant, or
  - (xxiv) as a Tier 5 (Temporary Worker) Migrant, or
  - (xxv) as the Partner of a Relevant Points Based System Migrant if the Relevant Points Based System Migrant is a Tier 4 Migrant.
- (f) An applicant who has, or was last granted, leave as a Student, a Student Nurse, a Student Re-Sitting an Examination, a Student Writing up a Thesis, a Postgraduate Doctor or Dentist or a Tier 4 Migrant and:
- (i) is currently being sponsored by a government or international scholarship agency, or
  - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,
- must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.
- (g) An applicant who was last granted leave as a Tier 5 (Temporary Worker) Migrant must have been granted such leave in either the Government Authorised Exchange sub-category or the Creative and Sporting sub-category of Tier 5.
- (h) Where an applicant was last granted leave in the Government Authorised Exchange sub-category:
- (i) that leave must have been granted in order to allow the applicant to work as an overseas qualified nurse or midwife, and



- (ii) the applicant must have completed their registration with the Nursing and Midwifery Council and
  - (iii) the applicant must provide the specified documents to show that the requirements in paragraph (i) and (ii) have been met.
  - (i) If the applicant was last granted leave in the Creative and Sporting sub-category, that leave must have been granted in order to allow the applicant to work as a professional footballer and the applicant must provide the specified documents to show that this requirement has been met.
  - (j) If applying as a Tier 2 (General) Migrant or as a Tier 2 (Intra-Company Transfer) Migrant, the applicant must have a minimum of 50 points under paragraphs 59 to 84 of Appendix A.
  - (k) If applying as a Tier 2 (Minister of Religion) Migrant, the applicant must have a minimum of 50 points under paragraphs 85 to 92 of Appendix A.
  - (l) If applying as a Tier 2 (Sportsperson) Migrant, the applicant must have a minimum of 50 points under paragraphs 93 to 100 of Appendix A.
  - (m) The applicant must have a minimum of 10 points under paragraphs 4 to 6 of Appendix B, unless the applicant:
    - (i) is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, and
    - (ii) is not seeking a grant of leave to remain that would extend his total stay in this category beyond 3 years.
  - (n) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.
  - (o) The applicant must be at least 16 years old.
  - (p) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.
  - (q) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK."
  - (r) If the Sponsor is a limited company, the applicant must not own more than 10% of its shares unless applying as a Tier 2 (Intra-Company Transfer) Migrant.
29. Delete paragraph 245ZG(a)(i) and substitute:
- “(i) subject to paragraph (ii), a period equal to 5 years less X, where X is the period of time that the applicant has already spent in the UK with entry clearance, leave to enter or remain in any combination of the categories set out in paragraph (b), and where X commences on the date on which the applicant was granted entry clearance, leave to enter or leave to remain at the start of the continuous period;”
30. Delete paragraph 245ZG(c) and substitute:
- “(c) If the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category, leave to remain will be granted for:
- (i) the length of the period of engagement plus 14 days, or
  - (ii) the difference between the period that the applicant has already spent in the UK since his last grant of entry clearance or leave to enter as a Tier 2 (Intra-Company Transfer) Migrant and 12 months,
- whichever is the shorter. If the calculation of period of leave comes to zero or a negative number, leave to remain will be refused.
- (d) If the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category, leave to remain will be granted for:
- (i) the length of the period of engagement plus 14 days, or
  - (ii) the difference between the period that the applicant has already spent in the UK since his last grant of entry clearance or leave to enter as a Tier 2 (Intra-Company Transfer) Migrant and 6 months,
- whichever is the shorter. If the calculation of period of leave comes to zero or a negative number, leave to remain will be refused.
- (e) Where:
- (i) paragraphs (a), (c) and (d) do not apply,
  - (ii) the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 2 Migrant, and

- (iii) the applicant is working for the same employer doing the same job as he was at the time of that earlier grant,
- leave to remain will be granted for a period equal to the length of the period of engagement plus 14 days, or for a period of 2 years, whichever is the shorter.”
31. In paragraph 245ZG renumber subsequent paragraphs (d) to (g) as (f) to (i).
32. In paragraph 245ZG(g), delete “paragraphs (a) to (d)” and substitute “paragraphs (a) to (f)”.
33. Delete paragraph 245ZG(h)(iii) and substitute:
- “(iii) no employment except:
- (1) working for the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, subject to any notification of a permissible change to the details of that employment as defined in United Kingdom Border Agency guidance,
- (2) supplementary employment,
- (3) voluntary work, and
- (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.”
34. Delete paragraph 245ZH(b)(vii) and substitute:
- “(vii) as a Highly Skilled Migrant,
- (viii) as an Innovator,
- (ix) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, or
- (x) 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.”
35. In paragraph 245ZL(c) delete “ or as a Doctor in Training, and”.
36. After paragraph 245ZL(c) insert:
- “(d) no employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, and”
37. In paragraph 245ZL renumber subsequent paragraph (d) as (e).
38. After paragraph 245ZO(c) insert:
- “(d) Where the applicant is under 18 years of age, the application must be supported by the applicant’s parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.
- (e) Where the applicant is under 18 years of age, the applicant’s parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant’s travel to, and reception and care in, the UK.”
39. Delete paragraph 245ZP(e)(iii) and substitute:
- “(iii) no employment except:
- (1) unless paragraph (2) applies, working for the person who for the time being is the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do for that Sponsor,
- (2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the government authorised exchange subcategory of Tier 5 (Temporary Workers), working for any person for whom the Sponsor directs him to work, provided that work is in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do,
- (3) supplementary employment, and
- (4) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the creative and sporting subcategory of Tier 5 (Temporary Workers), employment as a sportsperson for his national team while his national team is in the UK.”

40. In paragraph 245ZQ(b), after (iv) insert:
- “(v) as a Qualifying Work Permit Holder, provided
    - (1) the applicant was previously issued with a work permit for the purpose of employment as a sponsored researcher, and
    - (2) the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application shows he is being sponsored in the government authorised exchange sub-category, and
    - (3) the applicant is continuing employment with the same organisation for which his most recent period of leave was granted.”
41. After paragraph 245ZQ(e) insert:
- “(f) Where the applicant is under 18 years of age, the application must be supported by the applicant’s parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.
  - (g) Where the applicant is under 18 years of age, the applicant’s parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant’s care in the UK.”
42. Delete paragraph 245ZR(g)(iii) and substitute:
- “(iii) no employment except:
    - (1) unless paragraph (2) applies, working for the person who for the time being is the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do for that Sponsor,
    - (2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the government authorised exchange subcategory of Tier 5 (Temporary Workers), working for any person for whom the Sponsor directs him to work, provided that work is in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do,
    - (3) supplementary employment, and
    - (4) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the creative and sporting subcategory of Tier 5 (Temporary Workers), employment as a sports person for his national team while his national team is in the UK.”
43. Delete paragraph 245ZV(g) and substitute:
- “(g) If the course is below degree level the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 3 years in the UK as a Tier 4 Migrant since the age of 18 studying courses that did not consist of degree level study, and
    - (1) if the course contains a work placement the Sponsor must be a Highly Trusted Sponsor unless the course is a foundation degree, or
    - (2) if the course is at level 3 on the National Qualifications Framework, or at level 6 on the Scottish Credit and Qualifications Framework, the Sponsor must be a Highly Trusted Sponsor.”
44. In paragraph 245ZW(c)(iii) delete “or employed as a Doctor in Training” and substitute “or employed as a Doctor or Dentist in Training”.
45. Delete paragraph 245ZX(h) and substitute:
- “(h) If the course is below degree level the grant of leave to remain the applicant is seeking must not lead to the applicant having spent more than 3 years in the UK as a Tier 4 Migrant since the age of 18 studying courses that did not consist of degree level study, and
    - (1) if the course contains a work placement the Sponsor must be a Highly Trusted Sponsor unless the course is a foundation degree, or
    - (2) if the course is at level 3 on the National Qualifications Framework, or at level 6 on the Scottish Credit and Qualifications Framework, the Sponsor must be a Highly Trusted Sponsor.”
46. In paragraph 245ZY(c)(iii) delete “or employed as a Doctor in Training” and substitute “or employed as a Doctor or Dentist in Training”.
47. In paragraph 277 after “the applicant or the sponsor will be aged under 21”, add:  
“(or aged under 18 if either party is a serving member of HM Forces).”
48. In paragraph 289AA after “the applicant or the sponsor will be aged under 21”, add:  
“(or aged under 18 if either party is a serving member of HM Forces) .”
49. In paragraph 295AA after “the applicant or sponsor will be aged under 21” , add:  
“(or aged under 18 if either party is a serving member of HM Forces).”

50. In paragraph 295K delete:

“If the applicant is seeking leave to enter or remain as the unmarried or same-sex partner of a Highly Skilled Migrant, any leave which is granted will be subject to a condition prohibiting Employment as a Doctor in Training, unless the applicant is in the UK and has, or has last been granted, entry clearance, leave to enter or remain (which was not subject to a condition prohibiting Employment as a Doctor in Training) as the unmarried or same-sex partner of a migrant granted leave under Parts 3, 4, 5 or 6 of these Rules.”

and substitute:

“If the applicant is seeking leave to enter or remain as the unmarried or same-sex partner of a Highly Skilled Migrant, any leave which is granted will be subject to a condition prohibiting Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) is in the UK and has, or has last been granted, entry clearance, leave to enter or remain that was not subject to any condition restricting their employment, as the unmarried or same-sex partner of a migrant granted leave under Parts 3, 4, 5 or 6 of these Rules, and has been employed during that leave as a Doctor or Dentist in Training.”

51. Delete paragraph 319D(b)(iii) and substitute:

“(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a degree in medicine or dentistry at bachelor’s level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) is applying for leave to remain and has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting their employment, and has been employed during that leave as a Doctor or Dentist in Training.”

52. In paragraph 319E delete “unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules”.

53. In paragraph 319J delete “unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules”.

54. In paragraph 339D (iii), delete “and” and insert “or”.

55. In paragraph 339NC, delete (iii) and (iv).

56. In paragraph 352, delete “the interview shall be stopped” and insert “the interview will be suspended. The interviewer should then consider whether it would be appropriate for the interview to be resumed the same day or on another day”.

57. In Appendix A, delete Table 1 and substitute:

**Table 1 – Qualifications**

<b>Applications for leave to remain where the applicant has, or last had, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 31 March 2009</b>	
<b>Qualification</b>	<b>Points</b>
Bachelor’s degree	30
Master’s degree	35
PhD	50

<b>Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010</b>	
<b>Qualification</b>	<b>Points</b>
Master’s degree	35
PhD	50

<b>Applications for entry clearance and all other applications for leave to remain</b>	
<b>Qualification</b>	<b>Points</b>
Bachelor’s degree	30
Master’s degree	35
PhD	45

58. In Appendix A, delete the text of paragraph 7A and replace with “Paragraph deleted.”
59. In Appendix A, delete Table 2 and substitute:

**Table 2 – Previous earnings**

<b>Applications for leave to remain where the applicant has, or last had, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 31 March 2009</b>	
<b>Previous earnings</b>	<b>Points</b>
£16,000-£17,999	5
£18,000-£19,999	10
£20,000-£22,999	15
£23,000-£25,999	20
£26,000-£28,999	25
£29,000-£31,999	30
£32,000-£34,999	35
£35,000-£39,999	40
£40,000 or more	45

<b>Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010</b>	
<b>Previous earnings</b>	<b>Points</b>
£20,000-£22,999	15
£23,000-£25,999	20
£26,000-£28,999	25
£29,000-£31,999	30
£32,000-£34,999	35
£35,000-£39,999	40
£40,000 or more	45

<b>Applications for entry clearance and all other applications for leave to remain</b>	
<b>Previous earnings</b>	<b>Points</b>
£25,000-£29,999	5
£30,000-£34,999	15
£35,000-£39,999	20
£40,000-£49,999	25
£50,000-£54,999	30
£55,000-£64,999	35
£65,000-£74,999	40
£75,000-£149,999	45
£150,000 or more	75

60. In Appendix A, delete the text of paragraph 8A and replace with “Paragraph deleted.”
61. In Appendix A, delete Table 3 and substitute:

**Table 3 - UK Experience**

<b>Applications for leave to remain where the applicant has, or was last granted, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 6 April 2010</b>	<b>Points</b>
If £16,000 or more of the previous earnings for which points are claimed were earned in the UK	5
<b>Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place on or after 6 April 2010</b>	<b>Points</b>
If £25,000 or more of the previous earnings for which points are claimed were earned in the UK	5
<b>Applications for entry clearance and all other applications for leave to remain</b>	<b>Points</b>
If the qualification was obtained in the UK	5
If £25,000 or more of the previous earnings for which points are claimed were earned in the UK	5

62. In Appendix A, delete Table 4 and substitute:

**Table 4 – Age (at date of application)**

<b>Applications for entry clearance and leave to remain (unless the applicant falls into the boxes below)</b>	<b>Points</b>
Under 30 years of age	20
30 to 34 years of age	10
35 to 39 years of age	5
<b>Applications for leave to remain where an applicant has, or last had, leave as a Tier 1 (General) Migrant under the Rules in place on or after 6 April 2010</b>	<b>Points</b>
Under 32 years of age	20
32 to 36 years of age	10
37 to 41 years of age	5
<b>Applications for leave to remain where an applicant has, or last had, leave as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the Rules in place before 6 April 2010</b>	<b>Points</b>
Under 31 years of age	20
31 or 32 years of age	10
33 or 34 years of age	5
<b>Applications for leave to remain where an applicant has, or last had, leave as a Highly Skilled Migrant</b>	<b>Points</b>
Under 30 years of age	20
30 or 31 years of age	10
32 or 33 years of age	5

63. In Appendix A, in Table 9, insert “ or within 12 months of completing a United Kingdom Foundation Programme Office affiliated Foundation Programme as a postgraduate doctor or dentist” after “within 12 months of obtaining the relevant qualification”:
64. In Appendix A, in paragraph 54, insert “ and, where relevant, completion of the United Kingdom Foundation Programme Office affiliated Foundation Programme as a postgraduate doctor or dentist” after “qualification”.
65. In Appendix A, delete the text of paragraphs 56 and 57 and in each case replace with “Paragraph deleted.”
66. In Appendix A, in paragraph 61(a)(ii), after “was last granted leave,” insert:  
“ subject to any notification of a permissible change to the details of that employment as defined in United Kingdom Border Agency guidance,”

67. In Appendix A, in paragraph 61(b)(ii), after “was last granted leave,” insert:  
 “ subject to any notification of a permissible change to the details of that employment as defined in United Kingdom Border Agency guidance,”

68. In Appendix A, delete Table 10 and substitute:

**Table 10**

<b>Sponsorship</b>	<b>Points</b>	<b>Qualifications</b>	<b>Points</b>	<b>Prospective Earnings</b>	<b>Points</b>
Shortage occupation	50	None or below GCE A-level	0	Under £20000	0
Job offer passes Resident Labour Market Test	30	GCE A-level	5	£20000-23999.99	10
Intra-company Transfer	25	Bachelor’s degree	10	£24000-27999.99	15
Post Study Work (see note 73)	30	Master’s degree or PhD	15	£28000-31999.99 £32000+	20 25

69. In Appendix A, delete paragraph 65 and substitute:

“65. Points can only be scored for one criterion in the sponsorship column. For example, if a company brings in an intra company transferee after applying the resident labour market test to the post, the migrant will receive either 25 or 30 points, depending on the category he is applying under, not 55.”

70. In Appendix A, delete paragraph 69 and substitute:

“69. No points will be awarded for sponsorship unless:

- (a) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the United Kingdom Border Agency’s list of skilled occupations,
- (b) the salary (which for these purposes includes such allowances as are specified as acceptable for this purpose in guidance issued by the United Kingdom Border Agency) that the Certificate of Sponsorship Checking Service entry records that the migrant will be paid is at or above the appropriate rate for the job as stated in guidance published by the United Kingdom Border Agency,
- (c) if the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category, the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do:
  - (i) appears on the United Kingdom Border Agency’s list of graduate occupations, and
  - (ii) is part of a structured graduate training programme as defined in United Kingdom Border Agency guidance,
- (d) if the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant in the Skills Transfer sub-category, the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do:
  - (i) appears on the United Kingdom Border Agency’s list of graduate occupations, and
  - (ii) is for the sole purpose of transferring skills to or from the Sponsor’s UK work environment. The appointment must be additional to staffing requirements, that is the role in the UK would not exist but for the need for skills transfer.”

71. In Appendix A, delete paragraph 72 and substitute:

“72. In order for the applicant to be awarded points for being an intra-company transfer, the Certificate of Sponsorship Checking Service entry must confirm that the applicant will be coming to the UK to work for the Sponsor as a Tier 2 (Intra-company Transfer) Migrant.

- (a) If the applicant is applying in the Established Staff sub-category, he must also have been working for the Sponsor for the specified period and must provide the specified documents to prove this. During that period the applicant must have been working for the sponsor:
  - (i) outside the UK, and/or
  - (ii) in the UK, provided he had leave to work for the Sponsor as:
    - (1) a Tier 2 (Intra-Company Transfer) Migrant in the Established Staff sub-category or under the Rules in place before 6 April 2010,
    - (2) as 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



(3) as a Representative of an Overseas Business.

- (b) The specified period is:
- (i) a continuous period of 12 months immediately prior to the date of application, or
  - (ii) if at some point within the 12 months preceding the date of application, the applicant has been:
    - (1) on maternity, paternity or adoption leave, or
    - (2) working for the sponsor in the UK as a Tier 2 (Intra-Company Transfer) Migrant in either of the Graduate Trainee or Skills Transfer sub-categories,an aggregated period of at least 12 months within the 24 month period immediately prior to the date of application.
- (c) If the applicant is applying in the Graduate Trainee sub-category, he must have been working for the Sponsor outside the UK for a continuous period of 3 months immediately prior to the date of application, and must provide the specified documents to prove this.”

72. In Appendix A, delete paragraphs 75 to 77 and substitute:

“75. Points will only be awarded for a qualification if:

- (a) an applicant’s qualification is deemed by UK NARIC, or the United Kingdom Border Agency (in published guidance), to meet or exceed the recognised standard of a Bachelor’s or Master’s degree, or a PhD, in the UK, or
- (b) the qualification is below the recognised standard of a Bachelor’s or Master’s degree, or a PhD, in the UK, but the applicant submits the specified evidence to prove that it is equivalent to, or higher than, 1 or more passes at GCE A level.

76. Points will be awarded for a vocational or professional qualification if:

- (a) the qualification is deemed by UK NARIC or the appropriate professional body to be equivalent to a PhD, Bachelor’s or Master’s degree in the UK, or
- (b) the qualification is below the recognised standard of a Bachelor’s or Master’s degree, or a PhD, in the UK, but the applicant submits the specified evidence to prove it is equivalent to, or higher than, 1 or more passes at GCE A level.

77. Paragraph deleted.”

73. In Appendix A, delete Table 11 and substitute:

**Table 11**

<b>Sponsorship</b>	<b>Points</b>
Transitional arrangements apply (see paragraph 83 below)	50
Other cases in which applicant has a Certificate of Sponsorship, and is continuing to work in the same job for the same Sponsor at the same (or higher) salary	50

74. In Appendix A, in paragraph 81, delete “and 70” and substitute “and 69(c) and (d)”.

75. In Appendix A, delete paragraph 82 and substitute:

“82. No points will be awarded for sponsorship unless:

- (a) (i) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the United Kingdom Border Agency’s list of Skilled occupations.
- (ii) the applicant is a Senior Care Worker or an Established Entertainer,
- (b) (unless the applicant is an Established Entertainer) the salary that the Certificate of Sponsorship Checking Service entry records that the migrant will be paid is at or above the appropriate rate for the job as stated in the list of skilled occupations referred to in 82(a) (i), and
- (c) the salary that the Certificate of Sponsorship Checking Service entry records that the migrant will be paid is at or above the salary that the Certificate of Sponsorship Checking Service entry recorded that he would be paid when he was last granted leave as a Tier 2 Migrant.”

76. In Appendix A, delete paragraph 83(d) and substitute:

“(d) the applicant must have had continuous entry clearance, leave to enter and/or leave to remain in any of the categories listed in paragraph (a)(i) to (v) above for less than 5 years before the date that their last grant of entry clearance, leave to enter or leave to remain expires.”

77. In Appendix A, delete heading “**Qualifications and Prospective Earnings**” above paragraph 84.

78. In Appendix A, delete the text of paragraph 84 and replace with “Paragraph deleted.”.

79. In Appendix A, delete paragraph 119 and substitute:  
 “119. If the applicant is re-sitting examinations or repeating a module of a course, the applicant must not previously have re-sat the same examination or repeated the same module more than once, unless the Sponsor is a Highly Trusted Sponsor. If this requirement is not met then no points will be awarded for the Confirmation of Acceptance for Studies, unless the Sponsor is a Highly Trusted Sponsor.”
80. In Appendix A, paragraph 120 (a), delete “.” and insert:  
 “, and the level of course that a Sponsor may offer will depend on whether the Sponsor is a Highly Trusted Sponsor.”
81. In Appendix A, in paragraph 120(d), delete iii. and substitute:  
 “iii. be a full time course of study involving a minimum of 15 hours per week organised daytime study and, except in the case of a pre-session course, lead to an approved qualification, as defined in guidance published by the United Kingdom Border Agency, below bachelor degree level.”
82. In Appendix A, in paragraph 120(e), after “.” insert:  
 “Where the student is following a course of study below degree level study (excluding a foundation degree course), the course can only be offered by a Highly Trusted Sponsor.”
83. In Appendix B, delete paragraph 2(d)-(e) and substitute:  
 “(d) has ever been granted leave as a Tier 1 (General) Migrant or a Tier 1 (Entrepreneur) Migrant or Business person, or  
 (e) has ever been granted leave as a Highly Skilled Migrant, if that leave was granted under these Rules at a time when they included the changes which came into force on 5 December 2006.”
84. In Appendix B, delete paragraph 5(c) and substitute:  
 “(c) the applicant has ever been granted:  
 (i) entry clearance, leave to enter or leave to remain as a Minister of Religion, provided that leave was granted on or after 23 August 2004, or  
 (ii) entry clearance, leave to enter or leave to remain as a Tier 2 (General), Tier 2 (Intra - Company Transfer) or Tier 2 (Sportsperson) Migrant, provided that when he was granted that leave he obtained points for English language from paragraph 5(a) or (b) or (c)(i) above, or  
 (iii) entry clearance, leave to enter or leave to remain as a Tier 2 (Minister of Religion) migrant, provided that when he was granted that leave he obtained points for English language from paragraph 6(a) or (b) or (c)(i) below;”
85. In Appendix B, delete paragraph 5(e) and substitute:  
 “(e) the applicant is applying for leave to remain as a Tier 2 (Sportsperson) Migrant and:  
 (i) has ever been granted, entry clearance, leave to enter and/or leave to remain as a Tier 2 (Sportsperson) migrant or a Qualifying Work Permit Holder less than 5 years before the date that his last grant of entry clearance, leave to enter or leave to remain expires, and  
 (ii) is working for the same employer for whom he was working, or intending to work, when last granted leave”
86. In Appendix B, delete paragraph 6(c)-(d) and substitute:  
 “(c) the applicant has, or was last granted entry clearance, leave to enter or leave to remain as:  
 (i) a Minister of Religion, provided the leave was granted on or after 19 April 2007, or  
 (ii) a Tier 2 (Minister of Religion) Migrant, provided that when he was granted that leave he obtained points for English language from paragraph 6(a), (b) or (c)(i) above, or  
 (d) the applicant is applying for leave to remain as a Tier 2 (Minister of Religion) Migrant and:  
 (i) has been granted continuous entry clearance, leave to enter and/or leave to remain as a Tier 2 (Minister of Religion) Migrant or as a Minister of Religion, Missionary or Member of a Religious Order less than 5 years before the date that their last grant of entry clearance, leave to enter or leave to remain expires, and  
 (ii) is working for the same employer for whom he was working, or intending to work, when last granted leave.”

87. In Appendix C, delete table after paragraph 11 and replace with:

Criterion	Points
<p><b>If studying in inner London:</b></p> <p>i) Where the applicant does not have an established presence studying in the United Kingdom, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £800 for each month of the course up to a maximum of nine months.</p> <p>ii) Where the applicant has an established presence studying in the United Kingdom, the applicant must have funds amounting to the course fees required either for the remaining academic year if the applicant is applying part-way through, or for the next academic year if the applicant will continue or commence a new course at the start of the next academic year, or for the entire course if it is less than a year long, plus £800 for each month of the course up to a maximum of two months.</p>	10
<p><b>If studying in outer London and elsewhere in the United Kingdom</b></p> <p>iii) Where the applicant does not have an established presence studying in the United Kingdom, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £600 for each month of the course up to a maximum of nine months.</p> <p>iv) Where the applicant has an established presence studying in the United Kingdom, the applicant must have funds amounting to the course fees required either for the remaining academic year if the applicant is applying part-way through, or for the next academic year if the applicant will continue or commence a new course at the start of the next academic year, or for the entire course if it is less than a year long, plus £600 for each month of the course up to a maximum of two months.</p>	10

88. In Appendix C, after paragraph 13, insert:

“14. An applicant will have an established presence studying in the United Kingdom if the applicant has completed a course that was at least six months long within their last period of leave as a Tier 4 migrant, a student or as a Postgraduate Doctor or Dentist, and this course finished within the last four months, or the applicant is applying for continued study on a course where the applicant has completed at least six months of that course and has been studying within the last four months.”

89. In Appendix C, re-number paragraphs 14 to 18 as 15 to 19.

90. In Appendix C, delete table after re-numbered paragraph 16 and replace with:

Criterion	Points
<p><b>Where the child is (or will be) studying at a residential independent school:</b> sufficient funds are available to the applicant to pay boarding fees (being course fees plus board/lodging fees) for an academic year.</p>	10
<p><b>Where the child is (or will be) studying at a non-residential independent school and is in a private foster care arrangement (see notes below) or staying with and cared for by a close relative (see notes below):</b> sufficient funds are available to the applicant to pay school fees for an academic year, the foster carer or relative (who must meet such requirements as are specified in guidance published by the United Kingdom Border Agency) has undertaken to maintain and accommodate the child for the duration of the course, and that foster carer or relative has funds equivalent to at least £500 per month, for up to a maximum of nine months, to support the child while he is in the United Kingdom.</p>	10
<p><b>Where the child is (or will be) studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent,</b> sufficient funds are available to the applicant to pay school fees for an academic year, plus:</p> <ul style="list-style-type: none"> <li>• if no other children are accompanying the applicant and the parent, £1333 per month of stay up to a maximum of nine months; or</li> <li>• if other children are accompanying the applicant and the parent, £1333 per month, plus £533 per month for each additional child, up to a maximum of nine months.</li> </ul>	10

<p><b>Where the child is aged 16 or 17 years old and is living independently and studying in inner London:</b></p> <p>i) Where the applicant does not have an established presence studying in the United Kingdom, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £800 for each month of the course up to a maximum of nine months.</p> <p>ii) Where the applicant has an established presence studying in the United Kingdom, the applicant must have funds amounting to the course fees required either for the remaining academic year if the applicant is applying part-way through, or for the next academic year if the applicant will continue or commence a new course at the start of the next academic year, or for the entire course if it is less than a year long, plus £800 for each month of the course up to a maximum of two months.</p>	10
<p><b>Where the child is aged 16 or 17 years old, is living independently and studying in outer London or elsewhere in the United Kingdom:</b></p> <p>iii) Where the applicant does not have an established presence studying in the United Kingdom, the applicant must have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long, plus £600 for each month of the course up to a maximum of nine months.</p> <p>iv) Where the applicant has an established presence studying in the United Kingdom, the applicant must have funds amounting to the course fees required either for the remaining academic year if the applicant is applying part-way through, or for the next academic year if the applicant will continue or commence a new course at the start of the next academic year, or for the entire course if it is less than a year long, plus £600 for each month of the course up to a maximum of two months.</p>	10

91. In Appendix C, after re-numbered paragraph 19 insert:

“20. An applicant will have an established presence studying in the United Kingdom if the applicant has completed a course that was at least six months long within their last period of leave as a Tier 4 migrant or a student, and this course finished within the last four months, or the applicant is applying for continued study on a course where the applicant has completed at least six months of that course and has been studying within the last four months.”

92. In Appendix G, after “New Zealand” add “Monaco”.



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**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
LAID ON 18 MARCH 2010 (HC 439)**

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 implement changes to Tier 1 and Tier 2 of the Points-Based System recommended by the Migration Advisory Committee and accepted by the Government; to provide transitional arrangements for these changes; to introduce a new Skills Transfer sub-category to the Tier 2 (Intra-Company Transfer) category; to award additional points to Tier 2 migrants who hold nursing diplomas; to amend the employment restrictions for various migrants to work as a doctor or dentist in training; to provide for migrants to be employed as a doctor or dentist in training in the Tier 1 (Post-Study Work) category; to provide for minor changes to the employment details of Tier 2 migrants; to implement the next wave of changes to Tier 4 following the recent review of the student immigration system; to introduce protection arrangements for Tier 2 and Tier 5 migrants under the age of 18; to amend the Knowledge of Language and UK Life provisions of the Rules; to make amendments to the marriage visa age policy so that the current requirement that both the sponsor and the person being sponsored for a marriage visa must be aged 21 or over is lowered to 18 or over for serving members of the armed forces and their partners; to make minor amendments to the Immigration Rules in respect of asylum; and to add Monaco to the list of Tier 5 Youth Mobility Scheme countries in the Rules.

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

3.1 In the consultation document on the future of the Immigration Rules “Simplifying Immigration Law: A New Framework for Immigration Rules” published in November 2009, the UK Border Agency committed to scheduling routine Rules changes for April and October in future. This package of changes, to a number of different areas of the Rules as outlined at 2.1, is the first to have been co-ordinated on that basis, with their implementation aligned, as far as possible, with the cross-Government common commencement date. We believe that this new initiative to co-ordinate changes to the Immigration Rules at predictable times will assist Parliament, the public, business and applicants. Unfortunately, as that process beds in, it has on this occasion led to a delay in the full package of Rules changes being laid. The Government regrets that it has not been possible to comply with the convention that changes should be laid before Parliament no less than 21 days before they will come into force.

**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 entry into, and stay of persons in, the United Kingdom.

4.2 This Statement of Changes in Immigration Rules has been incorporated into a consolidated version of the Immigration Rules, which can be found under the ‘Policy and Law’ page at: [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk), where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

4.3 These changes to the Immigration Rules will come into force on 6 April 2010, excepting paragraphs 5, 6, 7, 52 and 53 which shall take effect on 7 April 2010. However, if an applicant has made an application for entry clearance or leave to enter or remain before 6 April and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 5 April 2010 or in the case of paragraphs 5, 6, 7, 52 and 53 on 6 April.

## **5. Territorial Extent and Application**

5.1 This instrument applies to all of the United Kingdom.

## **6. European Convention on Human Rights**

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

## **7. Policy Background**

### *What is being done and why*

7.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

### *Points Based System*

#### *Amendments to Tier 1 of the Points Based System*

7.2 Tier 1 of the Points-Based System caters for highly skilled workers, and was launched on 29 February 2008. Tier 1 consists of four categories: Tier 1 (General), Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Post-Study Work).

7.3 The following changes are being made to the Tier 1 (General) category, following recommendations by the Migration Advisory Committee:

- The points that migrants may score are being amended, the principal changes being:
  - Increases in the previous earnings thresholds, with the minimum threshold rising from £20,000 to £25,000;
  - Provision for migrants with Bachelor's degrees, or no degree, to qualify under this category of their previous earnings are high enough; and
  - More generous age thresholds, with points awarded to initial applicants under 40, raised from under 32 at present.
- An employment restriction is being added stating that Tier 1 (General) Migrants may not be employed as a professional sportsperson (including as a sports coach). This prevents professional sportspeople circumventing the governing body endorsement system in place under the sporting categories in Tier 2 and Tier 5. This is similar to the existing restrictions for Youth Mobility Scheme and Tier 4 migrants, which exist for the same purpose.
- Successful applicants will be granted leave for 2 years initially, rather than 3 years as at present. This will be followed by a 3-year extension, rather than 2 years as at present. The purpose of this change is to test that the migrant has become engaged in highly skilled employment in the UK at an earlier stage.

7.4 Transitional arrangements are being provided to ensure that migrants already in the UK under Tier 1 (General) or one of its predecessor categories are not adversely affected by the changes in 7.3 above. The previous points criteria and periods of leave are being retained for extension applications for these migrants;

7.5 The existing restrictions for Tier 1 migrants in all categories on employment as a doctor in training are being amended in three ways.

- Firstly, the definition is being expanded to include employment as a dentist in training, to correct a previous oversight.



- Secondly, non-EEA nationals who have a degree in medicine or dentistry from a UK educational institution are being exempted from this restriction, and may therefore work as a doctor or dentist in training.
- Thirdly, the Tier 1 (Post-Study Work) criteria are being amended to enable doctors and dentists to use this category on completion of their Foundation Programme training, which they undertake under Tier 4 of the Points-Based System.

7.6 The effect of the current rules is that if an applicant proved their English language skills in an earlier application that was not their most recent application, they must prove those skills again when applying for further leave. This is contrary to the policy intention which is that if an applicant has met the English language requirement once, they will not need to prove their English language skills in subsequent applications unless they are applying in a category that requires a higher level of English than they have previously proven.

### *Amendments to Tier 2 of the Points Based System*

7.7 Tier 2 of the Points-Based System caters for skilled workers with a job offer, and was launched on 28 November 2008. Tier 2 consists of four categories: Tier 2 (General), Tier 2 (Intra-Company Transfer), Tier 2 (Ministers of Religion) and Tier 2 (Sportsperson).

7.8 The following changes are being made to the Tier 2 (General) and Tier 2 (Intra-Company Transfer) categories, following recommendations by the Migration Advisory Committee:

- The points that migrants may score are being amended, the principal changes being:
  - Increases in the previous earnings thresholds, with the minimum threshold rising from £17,000 to £20,000;
  - An increase in the points awarded for a Master's degree, from 10 points to 15 points; and
  - Differential points awarded for sponsorship under Tier 2 (General) and Tier 2 (Intra-Company Transfer), to reflect the greater protection of the resident labour market under Tier 2 (General) and the greater contribution this category makes towards supporting public services.
- The qualifying period of previous overseas employment with the sponsor for Tier 2 (Intra-Company Transfer) is being increased from 6 months to 12 months, meaning that migrants will now need to have worked for their employer overseas for a year before they can transfer to the employer's UK base.
- A new Tier 2 (Intra-Company Transfer) sub-category is being created for graduate trainees, with a qualifying period of only 3 months, but with a maximum grant of leave of 12 months.
- The Tier 2 (Intra-Company Transfer) category will no longer lead to settlement.

7.9 Transitional arrangements are being provided to ensure that Tier 2 migrants already in the UK are not adversely affected by the changes in 7.8 above. 50 points are being awarded to applicants who apply for an extension in the same job for the same Sponsor at the same (or higher) salary, so that they will not be subject to the revised points criteria for initial applications. Tier 2 migrants and work permit holders who applied as Intra-Company Transfers before these changes came into effect will continue to be able to progress to settlement.

7.10 The purpose of the Tier 2 (Intra-Company Transfer) route is to enable established employees to fill posts in the UK which require skills that cannot be supplied by new recruits. Therefore the Resident Labour Market Test does not apply to this route. A change is being made so

that migrants will no longer be able to switch from Tier 2 (Intra-Company Transfer) to Tier 2 (General) while continuing to work for the same Sponsor. This change is being made to prevent Sponsors bringing over employees on the Tier 2 (Intra-Company Transfer) route (a route that does not lead to settlement) with the intention of securing the employee's continued employment in a category which does lead to settlement, namely Tier 2 (General).

- 7.11 A further Tier 2 (Intra-Company Transfer) sub-category is being created for new recruits who are coming to the UK not to fill a post but solely to acquire or impart skills and knowledge relevant to their new role. There is no qualifying period, but the maximum grant of leave is 6 months.
- 7.12 A change is being made to enable Sponsors to make minor changes to the employment details of Tier 2 migrants without the need for a fresh application.
- 7.13 A change is being made to allow Tier 2 (Sportsperson) Migrants to play for their national side whilst the national side is in the United Kingdom, without being required to make a further application.
- 7.14 Amendments are being made to the transitional arrangements for migrants in categories deleted by HC 1113 in November 2008, who are applying to switch into Tier 2. These changes correct an inconsistency by which part of the transitional arrangements applied to migrants who had already been granted five years leave in a deleted category, or combination of deleted categories, if they submitted an early application. The correction reflects the policy intent, that such migrants should either apply for settlement or apply under the full Tier 2 criteria.
- 7.15 An amendment is being made so that time spent in the United Kingdom with leave as a Highly Skilled Migrant or as an Innovator may be amalgamated with subsequent Tier 2 leave when calculating the five year period for settlement. This corrects an oversight in HC 1113.
- 7.16 Applicants are not required to prove their English language skills if they have proven those skills in their last application. However, as under Tier 1, the effect of the current Rules is that if an applicant proved their English language skills in an earlier application that was not their last application, they would be required to prove those skills again. An amendment is being made to the English language requirement so that this is no longer the case (unless the migrant is applying in a category that requires a higher level of English than they have previously proven).
- 7.17 Tier 2 migrants may be aged 16 and above. Under Section 55 of the Borders, Citizenship and Immigration Act 2009, the UK Border Agency must have regard to the need to safeguard children and to promote their welfare. Protection arrangements are being introduced for Tier 2 migrants under the age of 18, in line with the existing protection arrangements for Tier 4 migrants under the age of 18.
- 7.18 These protection arrangements allow leave to be granted to an applicant under 18 only where the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, confirm that they support the application and consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

#### ***Amendments to Tier 4 of the Points Based System***

- 7.19 Tier 4 of the Points Based System caters for students, and was launched on 31 March 2009. Tier 4 consists of two categories: Tier 4 (General) students and Tier 4 (Child) students.
- 7.20 The Prime Minister's review of Tier 4 was prompted by concerns about the sharp rise in student applications since the introduction of Tier 4. The review team, comprising officials from both the UK Border Agency and the Department for Business, Innovation and Skills, were asked to assess whether the prevailing Tier 4 policy strikes the appropriate balance between facilitating the access of genuine students to education in the United Kingdom and preventing abuse by economic migrants.

- 7.21 The Home Secretary's Written Ministerial Statement of 10 February 2010 provided full details of the changes that would be made to Tier 4 following completion of the review, and Statement of Changes in Immigration Rules HC 367, laid on the same date, gave effect to the first wave of changes.
- 7.22 Further changes are being made to the Immigration Rules as a result of the review. Only those education providers that qualify under the new Highly Trusted Sponsor category will be able to offer courses to Tier 4 (General) students that are at level 3 on the National Qualifications Framework, or at level 6 on the Scottish Credit and Qualifications Framework. In addition, only Highly Trusted Sponsors will be able to offer courses which contain work placements and which are below degree level (excluding foundation degrees).
- 7.23 We are also making a minor change to the Tier 4 (Child) category to extend the maximum period of leave granted to applicants aged 16 or 17, from 2 years to 3 years. This change means that, with the introduction of the new Highly Trusted Sponsor category, sponsors of lower-risk Tier 4 (Child) students will be able to offer programmes at National Qualifications Framework (NQF) level 3 and equivalents to these students, as well as any preparatory courses required beforehand, under the Tier 4 (Child) category.
- 7.24 In the light of the introduction of the new Highly Trusted Sponsor category from 6 April 2010, the Rules are also amended to provide Highly Trusted Sponsors greater flexibility in issuing valid Confirmations of Acceptance for Studies to their students who need to re-sit examinations or repeat course modules. A change to the definition of a foundation degree has also been made to ensure parity of treatment can be given to directly equivalent courses in the devolved administrations.
- 7.25 Appendix C, which covers the Rules on how applicants can meet the points required for maintenance, is also being updated to provide greater clarity on the requirements Tier 4 migrants must meet. The amendments do not indicate a change in policy in this area.
- 7.26 The existing restriction on employment as a doctor or dentist in training for Tier 4 (General) migrants is being amended in line with the amendments to the similar restriction for Tier 1 migrants. The exception, as under the existing restriction, is that a Tier 4 (General) migrant may be employed as a doctor or dentist in training on a recognised Foundation Programme.

#### ***Amendments to Tier 5 of the Points Based System***

- 7.27 Tier 5 of the Points-Based System caters for those coming to work in the UK for a limited time to satisfy primarily non-economic objectives, and was launched on 27 November 2008. Tier 5 consists of two categories: Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Workers).
- 7.28 A transitional arrangement is being added to allow work permit holders in the sponsored researcher category to switch into the Tier 5 (Temporary Worker) category to continue their employment as a sponsored researcher.
- 7.29 The existing restriction on employment as a doctor or dentist in training for Tier 5 (Youth Mobility Scheme) migrants is being amended in line with the amendments to the similar restriction for Tier 1 migrants and Tier 4 (General) migrants.
- 7.30 In line with the change for Tier 2 (Sportsperson) Migrants, a change is being made to allow Tier 5 (Temporary Worker) Migrants in the Creative and Sporting sub-category to play for their national side whilst the national side is in the United Kingdom, without being required to make a further application.
- 7.31 There is no minimum age limit for Tier 5 (Temporary Worker) migrants. Under Section 55 of the Borders, Citizenship and Immigration Act 2009, the UK Border Agency must have regard to the need to safeguard children and to promote their welfare. Protection arrangements are being introduced for Tier 5 (Temporary Worker) migrants under the age of 18, in line with the existing protection arrangements for Tier 4 migrants under the age of 18.

- 7.32 These protection arrangements allow leave to be granted to an applicant under 18 only where the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, confirm that they support the application and consent to the arrangements for the applicant's travel to, and reception and care in, the UK.

#### ***Amendments to Representatives of Overseas Businesses category***

- 7.33 A technical change is being made to this category, so that representatives of overseas newspapers, news agencies and broadcasting organisations may apply under this category, without being subject to the restriction that their employer must have no branch, subsidiary or other representative in the United Kingdom.

#### ***Amendments to Rules for family members***

- 7.34 The existing restrictions on employment as a doctor or dentist in training for family members of migrants with limited leave to remain are being amended in line with the amendments to the similar restriction for Tier 1 migrants, Tier 4 (General) migrants and Tier 5 (Youth Mobility Scheme) migrants.
- 7.35 These restrictions are not being extended to any categories of migrants where they do not already apply.

#### ***Knowledge of Language and UK Life***

- 7.36 The Government wishes to ensure that people seeking British citizenship have some understanding of one of the native languages of this country (English, Welsh or Scottish Gaelic) or of life in the United Kingdom. The intention behind this policy is to seek to ensure that migrants to the United Kingdom have better opportunities to become fully integrated into the UK way of life. In this change to the Immigration Rules we wish to correct an anomaly that has arisen as a result of changes made to the Scottish qualifications structure since they were introduced; to strengthen the provisions regarding sufficiency of knowledge of English and of life in the UK; to introduce a new requirement that for these purposes applicants must study at an accredited language college; to ensure the Rules reflect anticipated changes to the English for Speakers of Other Languages (ESOL) curriculum in England and the replacement of the Qualifications and Curriculum Authority with the Office of the Qualifications and Examination Regulator with effect from 1 April 2010 and to reduce the possibility of abuse of the requirements for indefinite leave to remain.
- 7.37 At the time when the relevant parts of HC 395 (paragraph 33B) came into force, the qualifications requirements under paragraph 33C (a) and (b) were roughly equal to each other in terms of the effort and level of proficiency required from the applicants. However, as a result of subsequent changes to the Scottish qualifications structure, applicants in Scotland are currently required to achieve a reading and writing unit, and a speaking and listening unit, whereas applicants in England, Wales and Northern Ireland have only to obtain a speaking and listening unit.
- 7.38 A change is therefore being introduced to ensure consistency between the respective parts of the UK. As a result of the changes, applicants in Scotland will now have to achieve one National Qualifications Unit in English for Speakers of Other Languages (ESOL) at Access 2, Access 3 or Intermediate 1 level which is certificated by the Scottish Qualifications Authority. This will match more closely the requirements facing applicants in England, Wales and Northern Ireland. The Scottish Executive has agreed the amended wording. The opportunity is also being taken to specify the required competency levels in respect of ESOL qualifications taken in England, so as to ensure consistent wording in the two sub-paragraphs concerned.
- 7.39 The Immigration Rules specify that a person is deemed to have sufficient knowledge of English and of life in the UK if "he has attended a course using teaching materials derived from 'Citizenship Materials for ESOL Learners' and has thereby obtained a relevant accredited

qualification in ESOL” (or if he has passed the test known as the “Life in the UK Test”). The policy intent behind this Rule was for applicants to attend a course relevant to their learning needs and to progress from one ESOL level to the next.

- 7.40 It has come to notice that a limited number of private sector providers have been assessing applicants at a lower level of competence than they have already achieved. This means they can attend a very short (but often expensive) course in order to obtain an ESOL certificate and meet the letter of the law (but not the spirit). There are no concerns with public sector providers who undertake diagnostic assessments in language to ensure a learner is allocated to an appropriate course and are already subject to an inspection regime.
- 7.41 The amended Rules seek to reduce the possibility of abuse and of exploitation of applicants, by specifying that evidenced progress from one level to the next is required and that qualifications can only be obtained through attendance at a college that is subject to inspection by Accreditation UK, the British Accreditation Council (BAC), the Accreditation Body for Language Services (ABLS) or the Accreditation Service for International Colleges (ASIC). Publicly funded colleges are already subject to inspection by OFSTED in England, the Education and Training Inspectorate in Northern Ireland, Her Majesty’s Inspectorate of Education in Scotland) or Estyn in Wales. The Channel Islands and Isle of Man have approved inspection arrangements that are analogous with those elsewhere in the UK.
- 7.42 It is estimated that these amendments will affect a maximum of 20,000 people per year.
- 7.43 Similar changes are being made to the British Nationality (General) Regulations 2003 in respect of the English language and knowledge of UK life requirements for naturalisation to ensure consistency of requirements for indefinite leave to remain and naturalisation. This is because applicants who satisfy the language and knowledge of life criteria when they seek indefinite leave to remain do not currently have to do so again when applying for naturalisation.
- 7.44 A technical change is also being made to paragraphs 319E and 391J relating to the dependants of Points Based System migrants applying for indefinite leave to remain. This change removes references to obsolete transitional provisions

### ***Marriage visa age policy***

- 7.45 The marriage visa rules are intended to facilitate the reunion of British citizens and Permanent UK residents with their spouses, civil partners, unmarried or same sex partners, proposed civil partners or fiancé(e)s provided they qualify under the rules. We raised the minimum age at which someone can sponsor a partner to come to the UK or be sponsored as a spouse from 18 to 21 on 27 November 2008.
- 7.46 This reform was aimed at tackling the problem of forced marriage. Raising the age provides an opportunity for individuals to develop maturity and life skills which may allow them to resist the pressure of being forced into a marriage and provides an opportunity to complete education. It delays sponsorship and allows the victim an opportunity to seek help and advice if necessary.
- 7.47 Since the policy came into force, we estimate that a small number (up to a maximum of approximately 100 cases every year) of serving armed forces and their partners may be affected by this rule. The UK Border Agency has considered whether the right balance has been struck by including the armed forces within current marriage visa age policy. We have explored continuing to apply the age requirement of 21 to serving HM forces and their partners and granting leave outside the rules in appropriate cases. However whilst leave can be granted outside the rules e.g. in compelling compassionate circumstances or on Article 8 ECHR grounds, this may not offer the certainty that a member of the armed forces on operational duties requires.

- 7.48 The following change to the Immigration Rules is being made to the marriage visa rules:
- Introduce a change to the marriage visa age policy for British and foreign national serving members of the HM forces and their spouses, civil partners, unmarried or same sex partners, fiancé(e)s or proposed civil partners so that the minimum age requirement of 18 would apply to both parties.
- 7.49 This change will allow a British or foreign national serving member of HM forces to sponsor a visa for their foreign national partner, at a lower age than civilian British citizens and permanent UK residents. Previously a minimum age requirement of 21 for both parties applied to all groups, but now a minimum age of 18 would apply to armed forces and their partners.
- 7.50 This change is required to reflect the fact that unlike civilian couples, the armed forces deserve special consideration to reflect the unique circumstances in which they operate including the need to deploy at short notice. The additional support provided by the Armed Forces to its families during deployments gives a Service person a degree of reassurance when they are deployed on operations and is more efficiently delivered if the family live close to the Service person's duty station. The MOD is unable to replicate the full range of families support to those who have to remain in their country of origin. Continual separation places both partners under additional strain and hence renders Service personnel less effective. MOD's view is that the armed forces will be more operationally effective if they are no longer concerned about their partners being prevented from entering the UK.
- 7.51 In order to ensure, as far as possible, consistency in the way that that spouses, fiancé(e)s, Civil partners, proposed civil partners, unmarried and same-sex partners are treated under the Immigration Rules, the lowering of the age from 21 to 18 for HM forces has been applied to civil partners, proposed civil partners, unmarried and same-sex partners as well as to spouses and fiancé(e)s.
- 7.52 The level of public interest in the policy is likely to be limited to those HM forces and their partners who might benefit from the policy and civilians and their partners aged 18-20 who will continue to be subject to a marriage visa age of 21.
- 7.53 This is a minor change to the Immigration Rules benefiting a specialist group so the change is not considered politically or legally important.

### ***Protection asylum***

- 7.54 Paragraph 339D (iii) of the Immigration Rules is being amended to clarify the effect of Article 17 of the Qualification Directive (2004/83/EC) which excludes applicants from subsidiary protection (humanitarian protection) where there are serious reasons for considering that they have engaged in one or more of the undesirable behaviours listed in the Directive (such as war crimes or other serious offences), or are a danger to the security or community of the UK.
- 7.55 Paragraph 339NC (iii) and (iv) of the Immigration Rules are being amended to remove the requirement for an asylum seeker to be asked to sign the interview record after an asylum interview verifying the contents of the interview. This is an unnecessary bureaucratic requirement that adds nothing to the other procedural safeguards that are in place to ensure that the interview record is accurate (such as allowing a legal representative to make comments / clarifications at the end of the interview, tape recording the interview upon request and allowing time for the legal representatives to submit any further information before a decision is made). This change makes redundant the provision that the applicant's failure to approve the interview record will not stop the Secretary of State from making a decision on that claim, so that is also being deleted.



7.56 Paragraph 352 of the Immigration Rules is being amended to clarify the procedures on interviewing unaccompanied asylum seeking children (UASCs). As currently drafted the Rules allow a child over the age of 12 to be interviewed about the substance of their asylum claim unless they are unfit or unable to be interviewed. The Rule as currently drafted provides that if a child becomes distressed or tired during the interview then the interview will be stopped. This amendment makes it clear that that stopping the interview will not mean that it will never be continued again and so we will clarify the wording to ensure that once a decision has been made to discontinue an asylum interview it can be continued again on another day. However, a child who does not wish to continue with their asylum interview will not have to.

### ***Tier 5 Youth Mobility Scheme***

7.57 Monaco meets all the eligibility criteria for inclusion in the Youth Mobility Scheme and has accepted the Government's invitation to join the Scheme. It is therefore being added to the list of participating YMS countries set out in Appendix G of the Immigration Rules

## **8. Consultation**

8.1 The Migration Advisory Committee held extensive public consultations prior to recommending the changes to Tier 1 and Tier 2 of the Points-Based System implemented by this Statement of Changes. In addition, the UK Border Agency has consulted, and continues to consult, educational institutions, employers and other key stakeholders, including those in the health sector, with regard to these changes.

8.2 In relation to the Tier 4 changes contained in this statement of changes, the Tier 4 review team considered all of the available data when considering the questions the Prime Minister posed, including the potential impacts of the proposals on the different parts of the education sector. Meetings were held with all the main representative bodies of the education sector, including representatives of further education, higher education and the English language sector. Written responses to the review were also gathered to confirm the views of different parts of the education sector and individual providers on the specific questions that needed to be answered.

8.3 With regard to the changes to the Knowledge of Language and UK Life provisions, the UK Border Agency has consulted, and continues to consult, key stakeholders including educational institutions and employers in the ongoing development of immigration strategies. However, as the changes effected by this Statement are minor technical changes or clarifications of current Rules, no formal public consultation has been undertaken in respect of them.

8.4 The amendments in respect of Scottish ESOL requirements have been the subject of consultation with the Scottish Government and the Scottish Qualifications Authority who have expressed themselves satisfied with the proposed form of words in respect of Rule 33D.

8.5 The issues being addressed by the proposed amendments to Rule 33C and insertion of 33E have been raised by several reputable public sector colleges who are concerned about exploitation and of possible damage to the reputation of the ESOL "Skills for Life" programme. The UK Border Agency has consulted ESOL experts on this issue and also members of the former Advisory Board for Naturalisation and Integration and the Department for Business, Innovation and Skills.

8.6 On the changes to the marriage visa age, the UK Border Agency has consulted the joint Home Office and Foreign and Commonwealth Office Forced Marriage Unit and the Ministry of Defence. There has not been a 12 week consultation as this is a minor amendment to the Immigration Rules.



## **9. Guidance**

- 9.1 Information on these changes will be made available to migrants, sponsors and UK Border Agency staff, through updates to websites and guidance.

## **10. Impact**

- 10.1 A full impact assessment of the majority of these changes will be published on the UK Border Agency website shortly at: [www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs)
- 10.2 This impact assessment does not consider the changes to points awarded to Tier 2 migrants who hold nursing diplomas; to the employment restrictions for various migrants to work as a doctor or dentist in training; or to provide for migrants to be employed as a doctor or dentist in training in the Tier 1 (Post-Study Work) category. The Department of Health and other key stakeholders in the health sector have been consulted on these changes. The impact will be positive as it will allow more overseas-qualified nurses to work in the UK for posts where no resident workers area available, and will allow non-EEA nationals who have graduated from UK medical and dental schools to progress to further training posts more easily.
- 10.3 The impact assessment does not consider the provision for minor changes to the employment details of Tier 2 migrants. The impact will be positive as it will enable minor changes to employment details to be made without the time and costs associated with a new application.
- 10.4 The impact assessment does not consider the introduction of protection arrangements for Tier 2 and Tier 5 migrants under the age of 18. This is a minor change and is not expected to have an adverse impact.
- 10.5 An impact assessment on the changes stemming from the Tier 4 review was published on the UK Border Agency website and will be available at:  
[www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs)
- 10.6 There is no impact on business, charities or voluntary bodies from the changes to the marriage visa age requirements and an Impact Assessment has not been prepared in respect of these changes. The impact on the public sector is limited to due to the small number of applicants who will fall under this rule change. We estimate there will be no more than a small number of applications by HM forces and their partners (up to a maximum of approximately 100 per year).
- 10.7 The changes to the Immigration Rules on asylum are minor clarifications of the actual Rules themselves. When considering evidence from the business and referring to current guidance there appeared to be no identifiable impacts that would undermine current process or policy. An impact assessment was not carried out on the changes to the Immigration Rules on Asylum because there are no financial implications involved.
- 10.8 The addition of Monaco to the countries participating in the Tier 5 Youth Mobility Scheme does not change the impact as assessed in the original impact assessment for the introduction of Tier 5.

## **11. Regulating small business**

- 11.1 The changes to the Points Based System requirements apply to small businesses. The impact on small businesses has been considered and an impact assessment will be published.
- 11.2 The changes to the Knowledge of Language and UK Life requirements apply to small businesses. The private education sector has a number of unaccredited small providers, who will be affected by the requirement to be accredited by a United Kingdom Border Agency-approved accreditation

body in order to provide ESOL programmes for persons wishing to apply for indefinite leave to remain or citizenship. However, the main providers already have accreditation systems in place. It is likely, therefore, that the extra costs of accreditation will be passed onto students in smaller schools. This, however, will be balanced by the greater protection against exploitation provided by accreditation. An analysis of the responses to the consultation mentioned above showed that many students are prepared to pay more to attend an institution which has been independently quality assured.

- 11.3 It is not possible to have an exemption to the accreditation requirement for small education providers as this would undermine the robustness of the control for a route which has been subject to abuse from bogus institutions. However the UKBA approved accreditation bodies charge a range of fees which ensure that those recruiting smaller numbers of students are charged reduced rates compared to larger providers. The introduction of a mandatory accreditation requirement was the subject of consultation with the education sector and was supported by 85% of respondents including a large number of small providers who had already voluntarily sought accreditation.

## 12. Monitoring and review

- 12.1 All the changes to the Points Based System introduced by this Statement will be monitored on an on-going basis as part of the review of progress towards meeting Public Service Agreement 3: 'ensure fair, controlled migration that protects the public and contributes to economic growth.'
- 12.2 The effect of the changes to the Knowledge of Language and UK Life provisions will be monitored by the UK Border Agency with, in respect of Regulation 5 (A)(2)(b), the assistance of the Scottish Executive and the Scottish Qualifications Authority. The amendments will be reviewed should they cause particular difficulties to applicants. Reputable providers of ESOL courses are, in the main, already members of accrediting bodies and should have no difficulty in meeting the new requirements but their feedback will be taken into consideration in any further review of this Regulation.

## 13. Contact

- 13.1 Queries should be addressed to the following:

Points Based System – Richard Jackson at the United Kingdom Border Agency on 0114 207 8373 or by e-mail to [Richard.Jackson@homeoffice.gsi.gov.uk](mailto:Richard.Jackson@homeoffice.gsi.gov.uk)

Knowledge of Language and UK Life – Ann Robertson at the United Kingdom Border Agency on 0208 604 6623 or by email to [ann.robertson@homeoffice.gsi.gov.uk](mailto:ann.robertson@homeoffice.gsi.gov.uk)

Marriage visa age – Helen Sayeed at United Kingdom Border Agency on 0208 604 6115 or by e-mail to [Helen.Sayeed4@homeoffice.gsi.gov.uk](mailto:Helen.Sayeed4@homeoffice.gsi.gov.uk)

Asylum – Fourentza Antoniou at the United Kingdom Border Agency on 0208 760 3508 or by e-mail to: [Fourentza.Antoniou3@homeoffice.gsi.gov.uk](mailto:Fourentza.Antoniou3@homeoffice.gsi.gov.uk)

Tier 5 – Youth Mobility Scheme – Mary Andrew at the United Kingdom Border Agency on 0208 760 3185 or by e-mail to: [Mary.Andrew@homeoffice.gsi.gov.uk](mailto:Mary.Andrew@homeoffice.gsi.gov.uk)

