

STATEMENT OF CHANGES IN IMMIGRATION RULES

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

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STATEMENT OF CHANGES IN IMMIGRATION RULES

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

Implementation

All changes other than the exceptions set out below take effect on 13 December 2012.

The changes in paragraphs 2, 10 to 17, 19, 21 to 25, 27 to 34, 36 to 43, 45 to 48, 50 to 56, 58 to 65, 67 to 74, 76 to 82, 84 to 86, 88 to 91, 93 to 97, 99 to 101, 103 to 105, 107 to 111, 113 to 114, 116, 121, 123 to 125, 127 to 128, 130 to 138, 147 to 149, 152, 154 to 155, 171, 172, 173, 174, 179, 180, 181, 182, 186, 187, 189, 190, 191, 192, 194 to 195, 197 to 198, 238 to 239, 248 to 249, 251 to 252, 254 to 258, 285 to 286, 288 to 301 and 303 to 304, 327, 328, 335 and 336 set out in this Statement shall apply to all applications decided on or after that date.

This Statement of Changes can be viewed at
<http://www.ind.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/>

The changes in paragraph 316 to 326 and 442 set out in this Statement shall take effect on 1 January 2013. In respect of these changes, if an applicant has made an application for leave before 1 January 2013 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 31 December 2012.

The changes set out in paragraph 334 shall take effect from 28 February 2013. In respect of these changes, if an applicant has made an application for leave before 28 February 2013 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 27 February 2013.

In respect of the other changes set out in this Statement, if an applicant has made an application for entry clearance or leave before 13 December 2012 and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 12 December 2012.

Review

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

The report must in particular:

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

“Review period” means:

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

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

“Relevant Rule” means an immigration rule which imposes a net burden (or cost) on business or civil society organisations.

Changes

1. In paragraph 6, after the definition of “foundation degree”, insert:

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

2. In paragraph 6, delete “ under Part 6A of these Rules, “lawfully” means with valid leave”.

3. In paragraph 6, in the definition of “supplementary employment”, delete “other employment in the same profession and at the same professional level” and substitute “other employment in a job which appears on the Shortage Occupation List in Appendix K, or in the same profession and at the same professional level”.
4. In paragraph 6, in the definition of “Training Programme”, after “science and / or medicine” insert “, or will be trained by HM Armed Forces or by UK emergency services,”
5. In paragraph 6, after the definition of “Temporary Engagement as a Sports Broadcaster”, insert:

“**Contractual Service Supplier**” means a migrant who is granted entry clearance, leave to enter or leave to remain under paragraphs 245ZP(e) and 245ZR(b)(ii)(3) of these Rules on the basis that the circumstances in which such leave is sought engage the United Kingdom’s commitments in respect of contractual service suppliers under the relevant provisions of one of the agreements specified in paragraph 111(f)(i) of Appendix A of these Rules.”

6. In paragraph A34, delete “as a Tier 2 Migrant or a Tier 5 Migrant under Part 6A of these Rules, or the family member of a Tier 2 or Tier 5 Migrant”, “Part 8 of” and after “of these Rules”, delete “,”.
7. In paragraph A34(i), delete “as a Tier 2 Migrant, Tier 5 Migrant or family member of a Tier 2 or Tier 5 Migrant” and substitute “for the immigration category under which the applicant wishes to apply”.
8. After paragraph A34(iii)(d), insert:

“(iv). Where an application for leave to remain in the United Kingdom is made by completing the relevant online application process, the application will be invalid if it does not comply with the requirements of paragraph A34(iii) and will not be considered.

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

9. Delete paragraph 34CA
10. In Part 5, after the heading “work permit employment”, insert:

“General requirements for indefinite leave to remain

128A. For the purposes of references in this Part to requirements for indefinite leave to remain:

- (a) “continuous period of 5 years or 4 years lawfully in the UK ” means residence in the United Kingdom for an unbroken period with valid leave, and for these purposes a period shall not be considered to have been broken where:
 - (i) the applicant has been absent from the UK for a period of 180 days or less in any of the five consecutive 12 calendar month periods (or four consecutive 12 calendar

month periods where the applicant is applying under the terms set out in Appendix S) preceding the date of the application for indefinite leave to remain; and

- (ii) the applicant has existing limited leave to enter or remain upon their departure and return, except that where that leave expired no more than 28 days prior to a further application for entry clearance, that period and any period pending the determination of that application shall be disregarded; and
 - (iii) the applicant has any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period disregarded.
- (b) Except for periods when the applicant had leave as a highly skilled migrant, a self-employed lawyer, a writer, composer or artist, an innovator or on the grounds of his UK ancestry:
- (i) the applicant must have been employed in the UK continuously throughout the five years, under the terms of his work permit or in the employment for which he was given leave to enter or remain, except that any breaks in employment in which he applied for leave as a work permit holder or as an employee under any provision of this section to work for a new employer shall be disregarded provided this is within 60 days of the end of his employment with his previous employer.
 - (ii) any absences from the UK must have been for a purpose that is consistent with the continuous permitted employment in (i), including paid annual leave or for serious or compelling reasons.

11. In paragraph 134, delete “to a person” and insert, after “provided”, “the applicant”.

12. In paragraph 134(i), delete “he”.

13. In paragraph 134(ii), delete “he”. After the first “throughout” delete “his” and substitute “their”.

14. In paragraph 134(iii), delete “he”. After “as certified by” delete “his” and substitute, “the”.

15. In paragraph 134(iv), delete “his employer certifies” and substitute, “provides certification from the employer”. Delete “he” and substitute “the applicant”.

16. In paragraph 134(v), delete “the applicant” and after “sub-section (iv)” insert “and the reason for the absences set out in paragraph 128A”

17. In paragraph 134(vi), delete first “he” and after “unless” delete “he” and substitute, “the applicant”. After “date of” delete “his” and insert “the”.

18. At paragraph 134(vii), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “does not fall for refusal under the general grounds for refusal.”.

19. Delete paragraph 134-SD – Specified documents and substitute:

“134SD – Specified documents

The specified documents referred to in paragraph 134(v) are A and B below:

A. Either a payslip and a personal bank or building society statement, or a payslip and a building society pass book.

(a) Payslips must be:

(i) the applicant's most recent payslip,

(ii) dated no earlier than one calendar month before the date of the application, and

(iii) either:

(1) an original payslip,

(2) on company-headed paper, or

(3) accompanied by a letter from the applicant's Sponsor, on company headed paper and signed by a senior official, confirming the payslip is authentic.

(b) Personal bank or building society statements must:

(i) be the applicant's most recent statement,

(ii) be dated no earlier than one calendar month before the date of the application,

(iii) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the date of the statement,

(4) the financial institution's name,

(5) the financial institution's logo, and

(6) transactions by the Sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 134-SD A

(a),

(iv) be either:

(1) printed on the bank's or building society's letterhead,

(2) electronic bank or building society statements from an online account, accompanied by a supporting letter from the bank or building society, on company headed paper, confirming the statement provided is authentic, or

(3) electronic bank or building society statements from an online account, bearing the official stamp of the bank or building society on every page,

and

(v) not be mini-statements from automatic teller machines (ATMs).

(c) Building society pass books must

(i) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the financial institution's name,

(4) the financial institution's logo, and

(5) transactions by the sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 134-SD A (a),

and

(ii) be either:

(1) the original pass book, or

(2) a photocopy of the pass book which has been certified by the issuing building society on company headed paper, confirming the statement provided is authentic.

B. A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

20. In paragraph 135G(v), after the words “Appendix S,”, delete the words “does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “does not fall for refusal under the general grounds for refusal”.

21. In paragraph 142, after “provided”, insert “the applicant”

22. In paragraph 142(i), delete “he” and insert after “5 years”, “lawfully”.

23. In paragraph 142(ii), delete “he”.

24. In paragraph 142(iii), delete “he” and after “certified by” delete “his” and substitute “the”.

25. In paragraph 142(iv), delete first “he” and after “unless” delete “he” and substitute “the applicant”. Delete “his makes his” and substitute “of the ” .

26. In paragraph 142(v), delete “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “does not fall for refusal under the general grounds for refusal”.

27. In paragraph 142(vi), delete “he”

28. In paragraph 142, after sub-paragraph(vi), insert:

“(vii) provides the specified documents in paragraph 142-SD to evidence the reason for the absences set out in paragraph 128A.”

29. In paragraph 142 insert, after (vii):

“142-SD Specified documents

The specified documents referred to in paragraph 142(vii) are:

- (a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.
- (b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

30. In paragraph 150, insert, after “provided”, “the applicant”.

31. In paragraph 150(i), delete “he” and after “5 years”, insert “lawfully”.

32. In paragraph 150(ii), delete “he”.

33. In paragraph 150(iii), delete “he” and after “certified by” delete “his” and substitute “the”.

34. In paragraph 150(iv), delete “he”. After “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.

35. At paragraph 150(v), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “ does not fall for refusal under the general grounds for refusal”.

36. In paragraph 150(vi), delete “he”.

37. In paragraph 150, after sub-paragraph (vi), insert:

“(vii) provides the specified documents in paragraph 150-SD to evidence the reason for the absences set out in paragraph 128A.”

38. In paragraph 150 insert, after (vii):

“150-SD Specified documents

The specified documents referred to in paragraph 150(vii) are:

- (a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.

(b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

39. In paragraph 158, after “provided” insert “the applicant”.

40. In paragraph 158(i), delete “he” and after “5 years” insert “lawfully”.

41. In paragraph 158(ii), delete “he”.

42. In paragraph 158(iii), delete “he” and after “as certified by”, delete “his” and substitute “the”.

43. In paragraph 158(iv), delete “he” and after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.

44. At paragraph 158(v), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “ does not fall for refusal under the general grounds for refusal”.

45. In paragraph 158(vi), delete “he”.

46. In paragraph 158, after sub-paragraph (vi), insert:

“(vii) provides the specified documents in paragraph 158-SD to evidence the reason for the absences set out in paragraph 128A.”

47. In paragraph 158 insert, after (vii):

“158-SD Specified documents

The specified documents referred to in paragraph 158(vii) are:

(a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.

(b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

48. In paragraph 159G (ii) after “5 years” insert “lawfully”.

49. At paragraph 159G(vi), delete the words “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

50. In paragraph 159G, after sub-paragraph (vii), insert:

“(viii) provides the specified documents in paragraph 159G-SD to evidence the reason for the absences set out in paragraph 128A.”

51. In paragraph 159G insert, after (viii):

“159G-SD Specified documents

The specified documents referred to in paragraph 159G(viii) are:

- (a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.
- (b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

52. In paragraph 167, insert after “provided”, “the applicant”.

53. In paragraph 167(i) delete “he” and insert after “5 years” “lawfully”

54. In paragraph 167(ii), delete “he”.

55. In paragraph 167(iii), delete “he” and after “as certified by” delete “his” and substitute “the ”.

56. In paragraph 167(iv), delete “he” and after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.

57. At paragraph 167(v), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “does not fall for refusal under the general grounds for refusal”.

58. In paragraph 167(vi), delete “he”.

59. In paragraph 167, after sub-paragraph (vi), insert:

“(vii) provides the specified documents in paragraph 167-SD to evidence the reason for the absences set out in paragraph 128A.”

60. In paragraph 167 insert, after (vii):

“167-SD Specified documents

The specified documents referred to in paragraph 167(vii) are:

- (a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.
- (b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all

original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

61. In paragraph 176, insert, after “provided”, “the applicant”.
62. In paragraph 176(i), delete “he” and insert after “5 years”, “lawfully”.
63. In paragraph 176(ii), delete “he”.
64. In paragraph 176(iii), delete “he” and after “by the leadership of” delete “his” and substitute “the”. After “congregation” delete “his” and substitute, “the” and after “to which” delete “he” and substitute “the applicant”.
65. In paragraph 176(iv), delete “he” and after “unless” delete “he” and substitute “the applicant” and delete “he makes his” and substitute “of the”.
66. At paragraph 176(v), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “ does not fall for refusal under the general grounds for refusal”.
67. In paragraph 176(vi) delete “he”.
68. In paragraph 176, after sub-paragraph (vi), insert:

“(vii) provides the specified documents in paragraph 176-SD to evidence the reason for the absences set out in paragraph 128A.”

69. In paragraph 176 insert, after (vii):

“176-SD Specified documents

The specified documents referred to in paragraph 176(vii) are:

- (a) A letter from the leadership of the congregation, the employer or the head of the religious order to which the applicant belongs, detailing the purpose and period of absences in connection with the employment, including periods of annual leave.
 - (b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”
70. In paragraph 184 insert, after “provided”, “the applicant”.
 71. In paragraph 184(i) delete “he” and insert after “5 years”, “lawfully”.
 72. In paragraph 184(ii) delete “he” .
 73. In paragraph 184(iii) delete “he”.

74. In paragraph 184(iv) delete “he” and after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.
75. At paragraph 184(v), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “ does not fall for refusal under the general grounds for refusal”.
76. In paragraph 184(vi), delete “he”.
77. In paragraph 184, after sub-paragraph (vi), insert:

“(vii) provides the specified documents in paragraph 184-SD to evidence the reason for the absences set out in paragraph 128A.”

78. In paragraph 184 insert, after (vii):

“184-SD Specified documents

The specified documents referred to in paragraph 184(vii) are:

- (a) A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave.
- (b) Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

79. In paragraph 192, insert, after “provided”, “the applicant”.
80. In paragraph 192(i) delete “he”.
81. In paragraph 192 (ii) delete “he” and insert after “5 years”, “lawfully”.
82. In paragraph 192 (iii) delete “he” and after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.
83. At paragraph 192(iv), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “ does not fall for refusal under the general grounds for refusal”.
84. In paragraph 192(v), delete “he”.
85. In paragraph 192, after sub-paragraph (v), insert:

“(vi) provides the specified documents in paragraph 192-SD to evidence the reason for the absences set out in paragraph 128A, where the absence was due to a serious or compelling reason.”

86. In paragraph 192 insert, after (vi):

“192-SD Specified documents

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

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

87. At paragraph 196D(vi), delete the words “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
88. In Part 6, after the heading “Persons seeking to enter or remain in the United Kingdom as a businessman, self-employed person, investor, writer, composer or artist”, insert:

“General requirements for indefinite leave to remain

200A. For the purposes of references in this Part to requirements for indefinite leave to remain:

- (a) “continuous period of 5 years lawfully in the UK ” means residence in the United Kingdom for an unbroken period with valid leave, and for these purposes a period shall not be considered to have been broken where:
- (i) the applicant has been absent from the UK for a period of 180 days or less in any of the five consecutive 12 calendar month periods preceding the date of the application for indefinite leave to remain; and
 - (ii) the applicant has existing limited leave to enter or remain upon their departure and return, except that where that leave expired no more than 28 days prior to a further application for entry clearance, that period and any period pending the determination of that application shall be disregarded; and
 - (iii) the applicant has any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period disregarded.
- (b) Absences from the UK must have been for a purpose that is consistent with the applicant’s basis of stay here, including leave, or for serious or compelling reasons.”
89. In paragraph 209, delete “he” and substitute “the applicant”.
90. In paragraph 209 (i), after “5 years” insert “lawfully”.
91. In paragraph 209(iv) after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.
92. At paragraph 209(v), delete the words “does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “does not fall for refusal under the general grounds for refusal”.

93. In paragraph 209, after sub-paragraph (vi), insert:

“(vii) provides the specified documents in paragraph 209-SD to evidence the reason for the absences set out in paragraph 200A, where the absence was due to a serious or compelling reason.”

94. In paragraph 209 insert, after sub-paragraph (vii):

“209-SD Specified documents

The specified documents referred to in paragraph 209(vii) are:

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

95. In paragraph 210G delete “he” and substitute “the applicant”.

96. In paragraph 210G (i) delete “leave” and substitute “lawfully”.

97. In paragraph 210G (iii) delete “he” and after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.

98. At paragraph 210G(iv), delete the words “he does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “does not fall for refusal under the general grounds for refusal”.

99. In paragraph 210G (v) delete “he”.

100. In paragraph 210G, after sub-paragraph (v), insert:

“(vi) provides the specified documents in paragraph 210G-SD to evidence the reason for the absences set out in paragraph 200A, where the absence was due to a serious or compelling reason.”

101. In paragraph 210G insert, after (vi):

“210G-SD Specified documents

The specified documents referred to in paragraph 210G(vi) are:

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

102. Delete paragraphs 222 to 223A.

103. In paragraph 230, delete “he” and substitute “the applicant”.

104. In paragraph 230(i), insert, after “5 years”, “lawfully”.
105. In paragraph 230(iii), after “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”.
106. At paragraph 230(iv), delete the words “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
107. In paragraph 230, after sub-paragraph (v), insert:

“(vi) provides the specified documents in paragraph 230-SD to evidence the reason for the absences set out in paragraph 200A, where the absence was due to a serious or compelling reason.”

108. In paragraph 230 insert, after sub-paragraph (vi):

“230-SD Specified documents

The specified documents referred to in paragraph 230(vi) are:

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

109. In paragraph 238, delete “he” and substitute “the applicant”.
110. In paragraph 238(i), after “5 years” insert “lawfully”.
111. In paragraph 238(iii) delete “he”. After “unless” delete “he” and substitute “the applicant”. Delete “he makes his” and substitute “of the”
112. At paragraph 238(iv), delete the words “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
113. In paragraph 238, after sub-paragraph (v), insert:

“(vi) provides the specified documents in paragraph 238-SD to evidence the reason for the absences set out in paragraph 200A, where the absence was due to a serious or compelling reason.”

114. In paragraph 238 insert, after sub-paragraph (vi):

“238-SD Specified documents

The specified documents referred to in paragraph 238(vi) are:

A personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g.

medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

115. At paragraph 242D(vi), delete the words “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

116. In Part 6A, before paragraph 245AA insert:

“General requirements for indefinite leave to remain

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

- (a) “continuous period of 5 years lawfully in the UK” means residence in the United Kingdom for an unbroken period with valid leave, and for these purposes a period shall not be considered to have been broken where:
- (i) the applicant has been absent from the UK for a period of 180 days or less in any of the five consecutive 12 month periods preceding the date of the application for leave to remain;
 - (ii) the applicant has existing limited leave to enter or remain upon their departure and return except that where that leave expired no more than 28 days prior to a further application for entry clearance, that period and any period pending the determination of an application made within that 28 day period shall be disregarded; and
 - (iii) the applicant has any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period disregarded.
- (b) Except for periods when the applicant had leave as a Tier 1 (General) Migrant, a Tier 1 (Investor) Migrant, a Tier 1 (Entrepreneur) Migrant, a Tier 1 (Exceptional Talent) Migrant, a highly skilled migrant, a businessperson, an innovator, an investor, a self-employed lawyer or a writer, composer or artist:
- (i) the applicant must have been employed in the UK continuously throughout the five years, under the terms of their Certificate of Sponsorship, work permit or in the employment for which they were given leave to enter or remain, except that any breaks in employment in which they applied for leave as a Tier 2 Migrant, or, under Tier 5 Temporary Worker (International Agreement) Migrant as a private servant in a diplomatic household, where in the latter case they applied to enter the UK before 6 April 2012, to work for a new employer shall be disregarded, provided this is within 60 days of the end of their employment with their previous employer or Sponsor; and
 - (ii) any absences from the UK during the five years must have been for a purpose that is consistent with the continuous employment in (i), including paid annual leave or for serious or compelling reasons.

117. In paragraph 245AA(a), delete “where subparagraph (b) applies.” and substitute “where they are submitted in accordance with subparagraph (b).”

118. In paragraph 245AA(b), delete “The subparagraph applies if” and substitute “If”

119. In paragraph 245AA(b), delete “will” and substitute “may”

120. In paragraph 245AA, after subparagraph (c) insert new subparagraph:

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

(i) in the wrong format, or

(ii) that is a copy and not an original document,

the application may be granted exceptionally, providing the UK Border Agency is satisfied that the specified documents are genuine and the applicant meets all the other requirements. The UK Border Agency reserves the right to request the specified original documents in the correct format in all cases where (b) applies, and to refuse applications if these documents are not provided as set out in (b).”

121. Delete paragraph 245BE and substitute:

“245BE. Period and conditions of grant

(a) Leave to remain will be granted:

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

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

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

(i) no recourse to public funds,

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

(iii) no employment as a Doctor or Dentist in Training, and

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

122. Delete paragraph 245BF(a).

123. In paragraph 245BF (c) insert, after “UK” “, with absences from the UK of no more than 180 days in any 12 calendar months during that period, ”

124. In paragraph 245CB(c)(iii)(2), delete “the Postgraduate Medical Education and Training Board” and substitute “the General Medical Council”

125. In paragraph 245CB(c)(iii)(3), delete “the Postgraduate Medical Education and Training Board” and substitute “the Joint Committee for Postgraduate Training in Dentistry”

126. Delete paragraph 245CD(a).

127. In paragraph 245CD, after sub-paragraph (i) insert:

“(j) The applicant must provide the specified documents in paragraph 245CD-SD to evidence the reason for the absences set out in paragraph 245AAA, where the absence was due to a serious or compelling reason.”

128. In paragraph 245CD insert, after (j):

“245CD-SD Specified documents

The specified documents referred to in paragraph 245CD(j) are:

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

129. Delete paragraph 245DF(a).

130. At the end of paragraph 245EC(a)(ii), delete “and”

131. At the end of paragraph 245EC(a)(iii), delete “.” and substitute “, and”

132. After paragraph 245EC(a)(iii), insert:

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

133. At the end of paragraph 245EE(b)(ii), delete “and”

134. In paragraph 245EE(b)(iii)(2), delete “the Postgraduate Medical Education and Training Board” and substitute “the General Medical Council”

135. In paragraph 245EE(b)(iii)(3), delete “the Postgraduate Medical Education and Training Board” and substitute “the Joint Committee for Postgraduate Training in Dentistry”

136. At the end of paragraph 245EE(b)(iii)(3), delete “.” and substitute “, and”

137. After paragraph 245EE(b)(iii)(3), insert:

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

138. Delete paragraph 245EE(c) and substitute:

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

(i) within 3 months of the date specified in paragraph (d), the applicant has not invested, or had invested on his behalf, at least £750,000 of his capital in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies other than those principally engaged in property investment, or

(ii) the applicant does not maintain the investment in (i) throughout the remaining period of his leave.”

139. Delete paragraph 245EF(a).

140. In paragraph 245GB(d), delete “regardless of whether he was in the UK during that time, ”

141. Delete paragraph 245GB(e) and substitute:

“(e) Paragraph (d) above does not apply to an applicant who:

(i) was not in the UK with leave as a Tier 2 migrant at any time during the above 12-month period, and provides evidence to show this; or

(ii) is applying under the Long Term Staff sub-category and who has, or last had entry clearance or leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Short Term staff, Graduate Trainee or Skills Transfer sub-categories, or under the Rules in place before 6 April 2011.”

142. In paragraph 245GE(g) as it exists before the changes in paragraph 143 of this Statement of Changes are applied, delete “paragraphs (c) to (f) do not apply” and substitute “paragraphs (c) to (h) do not apply”

143. In paragraph 245GE(h) as it exists before the changes in paragraph 143 of this Statement of Changes are applied, delete “the periods in paragraphs (a) to (g)” and substitute “the periods in paragraphs (a) to (i)”

144. In paragraph 245GE, renumber sub-paragraphs (g) and (h) as (i) and (j) respectively.

145. After paragraph 245GE(f), insert:

“(g) in the cases set out in paragraph (h) below, leave to remain will be granted for:

(i) a period equal to the length of the period of engagement plus 14 days, or

(ii) a period of 2 years, or

(iii) the difference between 9 years and the continuous period immediately before the date of application during which the applicant has had leave as a Tier 2 (Intra-Company Transfer) Migrant, or been in the UK without leave,

whichever is the shorter.

(h) The cases referred to in paragraph (g) are those where:

(i) the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category, and

(ii) the Certificate of Sponsorship Checking Service entry records that the applicant's gross annual salary (including such allowances as are specified as acceptable for this purpose in paragraph 75 of Appendix A) to be paid by the Sponsor is £150,000 or higher, and

(iii) paragraphs (c) to (f) do not apply.”

146. Delete paragraph 245GF(a).

147. In paragraph 245GF(d), delete “(b)” and substitute “(c)”.

148. In paragraph 245GF (f), delete “.” and insert, after “(e)(ii)” , “ and to evidence the reason for the absences set out in paragraph 245AAA.”

149. Delete paragraph 245GF-SD Specified documents, and substitute :

“245GF-SD Specified documents

The specified documents referred to in paragraph 245GF(f) are set out in A and B below:

A. Either a payslip and a personal bank or building society statement, or a payslip and a building society pass book.

(a) Payslips must be:

(i) the applicant's most recent payslip,

(ii) dated no earlier than one calendar month before the date of the application, and

(iii) either:

(1) an original payslip,

(2) on company-headed paper, or

(3) accompanied by a letter from the applicant's Sponsor, on company headed paper and signed by a senior official, confirming the payslip is authentic.

(b) Personal bank or building society statements must:

(i) be the applicant's most recent statement,

(ii) be dated no earlier than one calendar month before the date of the application,

(iii) clearly show:

(1) the applicant's name,

(2) the applicant's account number,

(3) the date of the statement,

(4) the financial institution's name,

- (5) the financial institution's logo, and
- (6) transactions by the Sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245GF-SD

A.(a)

(iv) be either:

- (1) printed on the bank's or building society's letterhead,
- (2) electronic bank or building society statements from an online account, accompanied by a supporting letter from the bank or building society, on company headed paper, confirming the statement provided is authentic, or
- (3) electronic bank or building society statements from an online account, bearing the official stamp of the bank or building society on every page,

and

(v) not be mini-statements from automatic teller machines (ATMs).

(c) Building society pass books must

(i) clearly show:

- (1) the applicant's name,
- (2) the applicant's account number,
- (3) the financial institution's name,
- (4) the financial institution's logo, and
- (5) transactions by the sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245GF-SD

A.(a)

and

(ii) be either:

- (1) the original pass book, or
- (2) a photocopy of the pass book which has been certified by the issuing building society on company headed paper, confirming the statement provided is authentic.

B. A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

150. In paragraph 245HB(g), delete “regardless of whether he was in the UK during that time.” and substitute “unless the applicant was not in the UK with leave as a Tier 2 Migrant during this period, and provides evidence to show this.”

151. Delete paragraph 245HD(d)(vii)(3) and (4) and substitute:

“(3) the course duration (except in the case of a degree certificate), and

(4) unless the course is a PhD course, the date of course completion and pass (or the date of award in the case of a degree certificate).”

152. Delete paragraph 245HD(k) and substitute:

“(k) The applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, unless:

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

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

153. Delete paragraph 245HF(a).

154. In paragraph 245HF (e) delete “.” and insert, after “(d)(ii)”, “and to evidence the reason for the absences set out in paragraph 245AAA.”

155. Delete paragraph 245HF-SD Specified documents, and substitute:

“245HF-SD Specified documents

The specified documents referred to in paragraph 245HF(e) are set out in A and B below:

A. Either a payslip and a personal bank or building society statement, or a payslip and a building society pass book.

(a) Payslips must be:

(i) the applicant's most recent payslip,

(ii) dated no earlier than one calendar month before the date of the application, and

(iii) either:

(1) an original payslip,

(2) on company-headed paper, or

(3) accompanied by a letter from the applicant's Sponsor, on company headed paper and signed by a senior official, confirming the payslip is authentic.

(b) Personal bank or building society statements must:

(i) be the applicant's most recent statement,

(ii) be dated no earlier than one calendar month before the date of the application,

(iii) clearly show:

- (1) the applicant's name,
 - (2) the applicant's account number,
 - (3) the date of the statement,
 - (4) the financial institution's name,
 - (5) the financial institution's logo, and
 - (6) transactions by the Sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245HF-SD
- A.(a)

(iv) be either:

- (1) printed on the bank's or building society's letterhead,
- (2) electronic bank or building society statements from an online account, accompanied by a supporting letter from the bank or building society, on company headed paper, confirming the statement provided is authentic, or
- (3) electronic bank or building society statements from an online account, bearing the official stamp of the bank or building society on every page,

and

(v) not be mini-statements from automatic teller machines (ATMs).

(c) Building society pass books must

(i) clearly show:

- 1) the applicant's name,
- (2) the applicant's account number,
- (3) the financial institution's name,
- (4) the financial institution's logo, and
- (5) transactions by the sponsor covering the period no earlier than one calendar month before the date of the application, including the amount shown on the specified payslip as at 245HF-SD

A.(a)

and

(ii) be either:

- (1) the original pass book, or
- (2) a photocopy of the pass book which has been certified by the issuing building society on company headed paper, confirming the statement provided is authentic.

B. A letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, a personal letter from the applicant which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

156. After paragraph 245ZK(c)(ii), insert:

“(ca) A Certificate of Sponsorship will only be considered to be valid if:

(i) the country or territory issued it to the applicant no more than 3 months before the application for entry clearance is made, and

(ii) it has not have been cancelled by the country or territory since it was issued.”

157. In paragraph 245ZO, after (f) insert:

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

(i) a diplomat, or

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

158. After paragraph 245ZO(g), insert:

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

159. Delete paragraph 245ZP(d) and insert:

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

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

(ii) 2 years,

whichever is the shorter”.

160. In paragraph 245ZP(e)(iii)(3), after “private servant in a diplomatic household” insert “or as a Contractual Service Supplier”

161. Renumber paragraph 245ZP(e) as paragraph 245ZP(f).

162. After paragraph 245ZP(d), insert:

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

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

(ii) 6 months,

whichever is the shorter.”

163. At the end of paragraph 245ZQ(b)(vi)(4), delete "." and substitute ", and"

164. In paragraph 245ZQ(b)(vi), after sub-paragraph (4), insert:

"and the applicant provides an original degree certificate, academic transcript or an academic reference on official headed paper of the institution, which clearly shows his name, the course title/award, and the date of course completion and pass (or the date of award in the case of a degree certificate)."

165. In paragraph 245ZQ (e) (ii) after “for the same employer” insert “as set out in paragraph 245ZO (g) who ”

166. After paragraph 245ZQ(i), insert:

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

167. In paragraph 245ZR(b)(ii)(2), after “the International Agreement subcategory”, insert “other than as a Contractual Service Supplier”

168. At the end of paragraph 245ZR(b)(ii)(2), insert “ or”

169. After paragraph 245ZR(b)(ii)(2), insert:

“(3) 6 months, if the applicant is being sponsored in the International Agreement subcategory and is a Contractual Service Supplier,”

170. Delete paragraph 245ZS(aa).

171. After paragraph 245ZS(d), insert:

“(e) the applicant must provide a letter from the employer detailing the purpose and period of absences in connection with the employment, including periods of annual leave. Where the absence was due to a serious or compelling reason, the applicant must provide a personal letter which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK.”

172. In paragraph 245ZV(ca) delete “118(c)”, on both occasions where it appears, and substitute “118(b)”.

173. In paragraph 245ZV (ga) (iii) delete sub paragraph (4) and substitute;
“(4) Law, where the applicant has completed a course at degree level in the UK and is progressing to:

- a. a law conversion course validated by the Joint Academic Stage Board; or
- b. the Legal Practice Course; or
- c. the Bar Professional Training Course.”

174. In paragraph 245ZW (c) (iii) (5) after ‘Sponsor’ insert ‘or they must be elected to a national National Union of Students (NUS) position’

175. At the end of paragraph 245ZW(c)(iii)(7), delete “.” and substitute “;”

176. After paragraph 245ZW(c)(iii)(7), insert:

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

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

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

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

until such time as a decision is received from the UK Border Agency on that application and any appeal against that decision has been determined.”

177. At the end of paragraph 245ZW(c)(iii), delete:

“self employed, or employed as a Doctor or Dentist in Training unless the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme,”

and substitute:

“self-employed other than under the conditions of (8) above, or employed as a Doctor or Dentist in Training other than under the conditions of (v) below,”

178. After paragraph 245ZW(c)(iv), insert:

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

- (1) the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme, or
- (2) the migrant has made an application as a Tier 4 (General) Student which is supported by a Confirmation of Acceptance for Studies assigned by a Highly Trusted Sponsor to sponsor the applicant to do a recognised Foundation Programme, and this study satisfies the requirements of (iv)(2) above, or
- (3) the migrant has made an application as a Tier 2 (General) Migrant which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor to sponsor the applicant to work as a Doctor or Dentist in Training, and this employment satisfies the conditions of (iii)(7) above.”

179. At paragraph 245ZW (c) (iv) (2) after ‘migrant;’ delete “and (3) supplementary study.”

180. After paragraph 245ZW (c) (iv) (2) insert:

“(3) supplementary study,”

181. In paragraph 245ZX (ha) (iii) delete sub paragraph (4) and substitute;

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

- a. a law conversion course validated by the Joint Academic Stage Board; or
- b. the Legal Practice Course; or
- c. the Bar Professional Training Course.”

182. In paragraph 245ZY (c) (iii) (5) after ‘Sponsor’ insert ‘or they must be elected to a national National Union of Students (NUS) position’

183. At the end of paragraph 245ZY(c)(iii)(7), delete “.” and substitute “;”

184. After paragraph 245ZY(c)(iii)(7), insert:

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

decision is received from the UK Border Agency on an application and any appeal against that decision has been determined,”

185. At the end of paragraph 245ZY(c)(iii), delete:

“self employed, or employed as a Doctor or Dentist in Training unless the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme,”

and substitute:

“self-employed other than under the conditions of (8) above, or employed as a Doctor or Dentist in Training other than under the conditions of (v) below,”

186. At paragraph 245ZY (c) (iv) (2) after ‘migrant;’ delete “and (3) supplementary study.”

187. After paragraph 245ZY (c) (iv) (2) insert:

“(3) supplementary study;”

188. After paragraph 245ZY(c)(iv), insert:

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

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

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

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

189. In paragraph 245ZZB (c) (iv) (4) after ‘Sponsor’ insert ‘or they must be elected to a national National Union of Students (NUS) position,’

190. At paragraph 245ZZB (c) (v) (2) after ‘Tier 4 Migrant;’ delete ‘and’

191. In paragraph 245ZZD (c) (iv) (4) after ‘Sponsor’ insert ‘or they must be elected to a National Union of Students (NUS) position’

192. At paragraph 245ZZD (c) (v) (2) after ‘Tier 4 Migrant;’ delete ‘and’

193. At paragraph 248D, after “(vi) the child is under 18 years of age; and” delete

“(vi) the applicant has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, unless he is under the age of 18 or aged 65 or over at the time he makes his application; and

(vii) the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”

And substitute

“(vii) the applicant has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, unless he is under the age of 18 or aged 65 or over at the time he makes his application; and

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

194. In paragraph 269, delete “he” and insert “the applicant”.

195. In paragraph 269(i) insert, after “5 years”, “lawfully”.

196. In paragraph 269(iii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

197. In paragraph 269 insert, after (iv):

“(v) in the case of absences for serious or compelling reasons, submits a personal letter which includes full details of the reason for the absences and all original supporting documents in relation to those reasons – e.g. medical certificates, birth/death certificates, information about the reasons which led to the absence from the UK”.

198. In paragraph 269 insert, after (v):

“continuous period of 5 years lawfully in the UK” means residence in the United Kingdom for an unbroken period with valid leave, and for these purposes a period shall not be considered to have been broken where:

(i) the applicant has been absent from the UK for a period of 180 days or less in any of the five consecutive 12 calendar month periods preceding the date of the application for indefinite leave to remain; and

(ii) the applicant has existing limited leave to enter or remain upon their departure and return, except that where that leave expired no more than 28 days prior to a further application for entry clearance, that period and any period pending the determination of an application made within that 28 day period shall be disregarded; and

(iii) the applicant has any period of overstaying between periods of entry clearance, leave to enter or leave to remain of up to 28 days and any period of overstaying pending the determination of an application made within that 28 day period disregarded”.

199. In paragraph 273D(vi), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

200. In paragraph 276B(iii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

201. In paragraph 276ADE(iv) after “(discounting any period of imprisonment)” insert “, and it would not be reasonable to expect the applicant to leave the UK”.
202. In paragraph 276DE(a) insert at the end “.This continuous leave will disregard any period of overstaying between periods of leave on the grounds of private life where the application was made no later than 28 days after the expiry of the previous leave. Any period pending the determination of the application will also be disregarded”.
203. In paragraph 276DE(c), delete the words “has no unspent convictions” and substitute “does not fall for refusal under any of the grounds in Section S-ILR: Suitability-indefinite leave to remain in Appendix FM”.
204. In paragraph 276DG, delete “
(a) the applicant has an unspent conviction;”
And substitute “
(a) paragraph S-ILR.1.5. or S-ILR.1.6. in Appendix FM applies;”
205. In paragraph 276F(v), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
206. In paragraph 276I, after “discharged from the British Army are that”, insert “the applicant”.
207. In paragraph 276I(i), delete “the applicant”.
208. In paragraph 276I(iii), after “date on which the application is made” insert “unless they are applying following a grant of limited leave to remain under paragraph 276KA”
209. At paragraph 276I, delete sub-paragraphs (iv) and (v) and substitute “
(iv) is not in the UK in breach of immigration laws except that any period of overstaying for a period of 28 days or less will be disregarded; and
(v) does not fall for refusal under the general grounds for refusal.”
210. After paragraph 276K, but before the cross-header entitled ‘Leave to enter or remain in the United Kingdom as a foreign or Commonwealth citizen discharged from HM Forces’ insert
“Leave to remain in the United Kingdom as a Gurkha discharged from the British Army

276KA. If a Gurkha discharged from the British Army does not meet the requirements for indefinite leave to remain only because paragraph 322(1C)(iii) or 322(1C)(iv) applies, the applicant may be granted limited leave to remain for a period not exceeding 30 months.”

211. In paragraph 276L after “discharged from HM Forces are that”, insert the words “the applicant”.
212. In paragraph 276L(i), delete “the applicant”.
213. In paragraph 276L(v), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
214. In paragraph 276O after “discharged from HM Forces are that”, insert “the applicant”.
215. In paragraph 276O(i), delete “the applicant”.
216. In paragraph 276O(iii), after “date on which the application is made” insert “unless they are applying following a grant of limited leave to remain under paragraph 276QA”
217. In paragraph 276O, delete “(v) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.” and substitute “(v) does not fall for refusal under the general grounds for refusal.”.
218. After paragraph 276Q, but before the cross-header entitled ‘Spouses, civil partners, unmarried or same-sex partners of persons settled or seeking settlement in the United Kingdom in accordance with paragraphs 276E to 276Q (HM Forces rules) or of members of HM Forces who are exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and have at least 5 years' continuous service’ insert
- “Leave to remain in the United Kingdom as a foreign or Commonwealth citizen discharged from HM Forces**
- 276QA. If a foreign or Commonwealth citizen discharged from HM Forces does not meet the requirements for indefinite leave to remain only because paragraph 322(1C)(iii) or 322(1C)(iv) applies, the applicant may be granted limited leave to remain for a period not exceeding 30 months.”
219. Immediately preceding paragraph 276R, turn the text of the cross-header “Requirements for indefinite leave to enter the United Kingdom as the spouse, civil partner, unmarried or same-sex partner of a person present and settled in the United Kingdom or being admitted on the same occasion for settlement under paragraphs 276E to 276Q or of a member of HM Forces who is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971 and has at least 5 years' continuous service” into bold type.
220. In paragraph 276R(vii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

221. Delete the version of paragraph 276U(vi) which uses the text “the applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “(vii) the applicant does not fall for refusal under the general grounds for refusal”.
222. In paragraph 276X(v), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
223. In paragraph 276AA(v), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
224. In paragraph A277A(b) insert at the end “For the purposes of this sub-paragraph an applicant last granted limited leave to enter under Part 8 will be considered as if they had last been granted limited leave to remain under Part 8.”.
225. In paragraph A277A insert at the end “; or
- (c) if the applicant does not meet the requirements of Part 8 for indefinite leave to remain as a bereaved partner only because paragraph 322(1C)(iii) or 322(1C)(iv) of these rules applies, the applicant will be granted limited leave to remain under Part 8 for a period not exceeding 30 months and subject to such conditions as the Secretary of State deems appropriate.”.
226. In paragraph A277C delete “is considering” and substitute “deems it appropriate, the Secretary of State will consider”.
227. In paragraph A277C delete “, she will also do so in line with those provisions.” and substitute “under paragraphs R-LTRP.1.1.(a), (b) and (d), R-LTRPT.1.1.(a), (b) and (d) and EX.1. of Appendix FM (family life) and paragraph 276ADE (private life) of these rules. If the applicant meets the requirements for leave under those provisions (except the requirement for a valid application), the applicant will be granted leave under paragraph D-LTRP.1.2. or D-LTRPT.1.2. of Appendix FM or under paragraph 276BE of these rules.”.
228. In paragraph A279 delete “The requirements of sections "S-EC: Suitability - entry clearance" and "S-LTR: Suitability - leave to remain" of Appendix FM shall apply to all applications made under Part 8 and paragraphs 276A-276D; and”.
229. Delete paragraph 281(i)(b)(iii).
230. In paragraph 281(vi), after “entry in this capacity”, insert “; and
- (vii) the applicant does not fall for refusal under the general grounds for refusal.”.
231. In paragraph 287(a)(vii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

232. In paragraph 287(b)(v), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
233. Delete paragraph 289A(v).
234. After paragraph 289C, insert “289D. If the applicant does not meet the requirements for indefinite leave to remain as a victim of domestic violence only because paragraph 322(1C)(iii) or 322(1C)(iv) applies, they may be granted further limited leave to remain for a period not exceeding 30 months and subject to such conditions as the Secretary of State deems appropriate.”
235. Delete paragraph 295A(i)(b)(iii).
236. In paragraph 295A(viii), after “entry in this capacity”, insert “; and (ix) the applicant does not fall for refusal under the general grounds for refusal.”
237. In paragraph 295G(vii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
238. In paragraph 295K(2), delete “the Postgraduate Medical Education and Training Board” and substitute “the General Medical Council”
239. In paragraph 295K(3), delete “the Postgraduate Medical Education and Training Board” and substitute “the Joint Committee for Postgraduate Training in Dentistry”
240. In paragraph 295M(v), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
241. In paragraph 297(vii), delete the words “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
242. In paragraph 298(i)(c), after “child’s upbringing” insert “or the child normally lives with this parent and not their other parent”.
243. At paragraph 298(ii) after “has” insert “or has had”.
244. In paragraph 298(vi), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.
245. In paragraph 310(xiii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

246. In paragraph 311(xii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

247. In paragraph 317(vii), delete “have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974” and substitute “fall for refusal under the general grounds for refusal”.

248. In paragraph 319D(b)(iii)(2), delete “the Postgraduate Medical Education and Training Board” and substitute “the General Medical Council”

249. In paragraph 319D(b)(iii)(3), delete “the Postgraduate Medical Education and Training Board” and substitute “the Joint Committee for Postgraduate Training in Dentistry”

250. Delete paragraph 319E(h).

251. Delete paragraph 319H(b) and substitute:

“(b) The applicant must be the child of a parent who has, or is at the same time being granted, valid entry clearance, leave to enter or remain as:

(i) a Relevant Points Based System Migrant, or

(ii) the partner of a Relevant Points Based System Migrant.”

252. After paragraph 319H(e), insert:

“(f) Both of the applicant's parents must either be lawfully present in the UK, or being granted entry clearance or leave to remain at the same time as the applicant or one parent must be lawfully present in the UK and the other is being granted entry clearance or leave to remain at the same time as the applicant, unless:

(i) The Relevant Points Based System Migrant is the applicant's sole surviving parent, or

(ii) The Relevant Points Based System Migrant parent has and has had sole responsibility for the applicant's upbringing, or

(iii) there are serious or compelling family or other considerations which would make it desirable not to refuse the application and suitable arrangements have been made in the UK for the applicant's care.”

253. In paragraph 319H, delete:

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

(k) If the applicant is a child born in the UK to a Relevant Points Based System migrant and their partner, the applicant must provide a full UK birth certificate showing the names of both parents.

(l) All arrangements for the child's care and accommodation in the UK must comply with relevant UK legislation and regulations.”

and substitute:

“(k) If the applicant is a child born in the UK to a Relevant Points Based System migrant and their partner, the applicant must provide a full UK birth certificate showing the names of both parents.

(l) All arrangements for the child's care and accommodation in the UK must comply with relevant UK legislation and regulations.

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

254. Delete paragraph 319J(b) and substitute:

“(b) The applicant must be the child of a parent who has, or is at the same time being granted, indefinite leave to remain as:

(i) a Relevant Points Based System Migrant, or

(ii) the partner of a Relevant Points Based System Migrant.”

255. In paragraph 319J(c), after “Points Based System Migrant” insert “, or the partner of a Points Based System migrant”

256. In paragraph 319J(e), after “lawfully” delete “present” and substitute “settled” and after “granted” delete “entry clearance, limited leave to remain, or”

257. In paragraph 319J(e)(iii) delete “.” and substitute “, or”

258. After paragraph 319J(e)(iii) insert:

“(iv) One parent is, at the same time, being granted indefinite leave to remain as a Relevant Points Based System Migrant, the other parent is lawfully present in the UK or being granted leave at the same time as the applicant, and the applicant was granted leave as the child of a Relevant Points Based System Migrant under the Rules in place before 9 July 2012.”

259. In paragraph 319J, delete:

“(g) The applicant does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974. and;

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

(h) If the applicant is a child born in the UK to a Relevant Points Based System migrant and their partner, the applicant must provide a full UK birth certificate showing the names of both parents.

(i) All arrangements for the child's care and accommodation in the UK must comply with relevant UK legislation and regulations."

and substitute:

" (g) If the applicant is a child born in the UK to a Relevant Points Based System migrant and their partner, the applicant must provide a full UK birth certificate showing the names of both parents.

(h) All arrangements for the child's care and accommodation in the UK must comply with relevant UK legislation and regulations.

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

260. In paragraph 319W(vii), delete "have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974" and substitute "fall for refusal under the general grounds for refusal".

261. In Part 9, delete paragraph 320(2) and substitute "

320(2) the fact that the person seeking entry to the United Kingdom:

- (a) is currently the subject of a deportation order; or
- (b) has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years; or
- (c) has been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence; or
- (d) has been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 12 months, unless a period of 5 years has passed since the end of the sentence.

Where this paragraph applies, unless refusal would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees, it will only be in exceptional circumstances that the public interest in maintaining refusal will be outweighed by compelling factors."

262. In paragraph 320(7B)(v) after "more than 5 years ago;", delete "or".

263. In paragraph 320(7B)(vi) after "more than 10 years ago" delete "." and add "; or

(vii) left or was removed from the UK as a condition of a caution issued in accordance with s.134 Legal Aid, Sentencing and Punishment of Offenders Act 2012 more than five years ago."

264. Delete paragraph 320(18).

265. After paragraph 320(18) but before 320(19), insert “

(18A) within the 12 months preceding the date of the application, the person has been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record;

(18B) in the view of the Secretary of State:

(a) the person’s offending has caused serious harm; or

(b) the person is a persistent offender who shows a particular disregard for the law.”

266. Delete the text of paragraph 320(19) and substitute “The immigration officer deems the exclusion of the person from the United Kingdom to be conducive to the public good. For example, because the person’s conduct (including convictions which do not fall within paragraph 320(2)), character, associations, or other reasons, make it undesirable to grant them leave to enter.”

267. In paragraph 321(iii), delete “on grounds of criminal record; because the person seeking leave to enter is the subject of a deportation order or because exclusion would be conducive to the public good.” and substitute “on grounds which would have led to a refusal under paragraphs 320(2), 320(6), 320(18A), 320(18B) or 320(19).”

268. In paragraph 321A(2), after “in support of the application”, delete “.” and substitute “; or”

269. After paragraph 321A(4) but before 321A(5), insert “

(4A) Grounds which would have led to a refusal under paragraphs 320(2), 320(6), 320(18A), 320(18B) or 320(19) if the person concerned were making a new application for leave to enter or remain”

270. Delete the text of paragraph 321A(5) and substitute “The Immigration Officer or the Secretary of State deems the exclusion of the person from the United Kingdom to be conducive to the public good. For example, because the person’s conduct (including convictions which do not fall within paragraph 320(2)), character, associations, or other reasons, make it undesirable to grant them leave to enter the United Kingdom; or”

271. After paragraph 322(1A) and before the cross-header entitled ‘Grounds on which leave to remain and variation of leave to enter or remain in the United Kingdom should normally be refused’, insert “

(1B) the applicant is, at the date of application, the subject of a deportation order or a decision to make a deportation order;

(1C) where the person is seeking indefinite leave to enter or remain:

- (i) they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years; or
- (ii) they have been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months but less than 4 years, unless a period of 15 years has passed since the end of the sentence; or
- (iii) they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence; or
- (iv) they have, within the 24 months preceding the date of the application, been convicted of or admitted an offence for which they have received a non-custodial sentence or other out of court disposal that is recorded on their criminal record.”

272. In paragraph 322(5), delete “character, conduct and associations” and substitute “conduct (including convictions which do not fall within paragraph 322(1C)), character or associations”

273. After paragraph 322(5) but before 322(6), insert

“(5A) it is undesirable to permit the person concerned to enter or remain in the United Kingdom because, in the view of the Secretary of State:

- (a) their offending has caused serious harm; or
- (b) they are a persistent offender who shows a particular disregard for the law.”

274. In paragraph 323(iii), after “in his own right” delete the full stop and substitute “; or”

275. In paragraph 323(iv), after “339G (i)-(vi)”, delete the full stop and substitute “; or

(v) where a person has, within the first 6 months of being granted leave to enter, committed an offence for which they are subsequently sentenced to a period of imprisonment.”

276. In paragraph 326B delete “and” and substitute “which are relevant to those elements and in line with”.

277. In Part 13, in paragraph 390A, delete “or Entry Clearance Officer assessing the application”

278. Delete the existing wording at paragraph 391 and substitute

“391. In the case of a person who has been deported following conviction for a criminal offence, the continuation of a deportation order against that person will be the proper course:

- (a) in the case of a conviction for an offence for which the person was sentenced to a period of imprisonment of less than 4 years, unless 10 years have elapsed since the making of the deportation order, or
- (b) in the case of a conviction for an offence for which the person was sentenced to a period of imprisonment of at least 4 years, at any time,

Unless, in either case, the continuation would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees, or there are other exceptional circumstances that mean the continuation is outweighed by compelling factors.”

279. After paragraph 391 but before 392, insert

“391A. In other cases, revocation of the order will not normally be authorised unless the situation has been materially altered, either by a change of circumstances since the order was made, or by fresh information coming to light which was not before the appellate authorities or the Secretary of State. The passage of time since the person was deported may also in itself amount to such a change of circumstances as to warrant revocation of the order.”

280. After paragraph 397 but before paragraph 398, insert a new cross-header entitled “Deportation and Article 8”.

281. In paragraph 399B, after “leave may be granted”, delete t “for a period” and substitute “for periods”.

282. In paragraph 399B, after “the Secretary of State deems appropriate.” insert “Where a person who has previously been granted a period of leave under paragraph 399B would not fall for refusal under paragraph 322(1C), indefinite leave to remain may be granted.”

283. Delete paragraph 399C.

284. In Appendix 7, in the appendix title and text, delete both instances of “paragraph 159A (v) and paragraph 159D (iv)” and substitute “paragraphs 159A(v), 159D(iv) and 159EA(iii)”

285. In Appendix A, delete paragraph 26(g) and substitute:

“(g) employer pension contributions or monies paid to the applicant as a pension,”

286. In Appendix A, in paragraph 34-SD(ii), delete “visa” and substitute “entry clearance”

287. In Appendix A, after paragraph 36, insert:

“36A. An applicant who is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as:

- (i) a Tier 4 Migrant,

- (ii) a Student,
- (iii) a Student Nurse,
- (iv) a Student Re-sitting an Examination, or
- (v) a Student Writing Up a Thesis,

will only be awarded points under the provisions in (b) in Table 4.”

288. In Appendix A, in the first row of Table 4, in (b)(iii), after “UK Government Departments,” insert “ or Devolved Government Departments in Scotland, Wales or Northern Ireland,”

289. In Appendix A, in the first row of Table 4, delete (d)(iv) and substitute:

“(iv) is working in an occupation which appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the Codes of Practice in Appendix J, and provides the specified evidence in paragraph 41-SD. “Working” in this context means that the core service his business provides to its customers or clients involves the business delivering a service in an occupation at this level. It excludes any work involved in administration, marketing or website functions for the business.”

290. In Appendix A, delete paragraph 41-SD(c)(ii) and substitute:

“(ii) the Standard Occupational Classification (SOC) code of the occupation that the applicant is working in, which must appear on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the Codes of Practice in Appendix J,”

291. In Appendix A, in paragraph 41-SD(c), renumber second sub-paragraph (iii) as (iv).

292. In Appendix A, after paragraph 45, insert:

“45A. No points will be awarded where the specified documents show that the funds are held in a financial institution listed in Appendix P as being an institution with which the UK Border Agency is unable to make satisfactory verification checks.”

293. In Appendix A, delete the title of Table 5 and substitute:

“Table 5: Applications for entry clearance or leave to remain referred to in paragraph 37”

294. In Appendix A, in paragraph 46-SD(b), after “in his own name” insert “or on his behalf (and showing his name)”

295. In Appendix A, in paragraph 46-SD(f), after “Tier 1 (Entrepreneur) Migrant,” insert “ or where (d) in Table 4 applies,”

296. In Appendix A, in paragraph 46-SD(f) and all sub-paragraphs within (f), delete each instance of “in the second row of Table 5” and substitute “in the relevant table”

297. In Appendix A, at the end of paragraph 46-SD(f)(i)(1), after “number,” insert “dated no more than 8 months from the specified date in the relevant table,”

298. In Appendix A, delete paragraph 53:

“53. DELETED”

and substitute:

“53. No points will be awarded for funds that are made available to any individual other than the applicant, except under the terms of paragraph 52 above.”

299. In Appendix A, delete the title of Table 8 and substitute:

“Table 8: Applications for entry clearance or leave to remain referred to in paragraph 56”

300. In Appendix A, in row 4 of Table 9, delete:

“When calculating the specified continuous period, the first day of that period will be taken to be the day 3 months before the full specified amount is invested.”

and substitute:

“When calculating the specified continuous period, the first day of that period will be taken to be the later of:

(a) the date the applicant first entered the UK as a Tier 1 (Investor) Migrant (or the date entry clearance was granted, if this was within three months of the date of entry), or

(b) the date 3 months before the full specified amount was invested.”

301. In Appendix A, after paragraph 61, insert:

“61A. In Tables 7, 8 and 9, "money of his own under his control" and "money under his control" exclude money that a loan has been secured against, where another party would have a claim on the money if loan repayments were not met.”

302. In Appendix A, after paragraph 64A-SD, insert:

“64B-SD. In the case of an application where Table 9, row 1 (a) or (b) applies, points will only be awarded if the applicant:

(a) (i) has had the additional money or assets that he was not awarded points for in his previous grant of leave for a consecutive 90-day period of time, ending no earlier than one calendar month before the date(s) this additional capital was invested (as set out in Table 9, row 2), and

(ii) provides the specified documents in paragraph 64-SD (with the difference that references to “date of application” in that paragraph are taken to read “date of investment”); or

(b) provides the additional specified documents in paragraph 64A-SD of the source of the additional money or assets (with the difference that references to “date of application” in that paragraph are taken to read “date of investment”).”

303. In Appendix A, at the end of paragraph 65(a), after “trust,” insert “ or investments that are held in offshore custody;”

304. In Appendix A, after paragraph 65, insert:

“65A. No points will be awarded where the specified documents show that the funds are held in a financial institution listed in Appendix P as being an institution with which the UK Border Agency is unable to make satisfactory verification checks.”

305. In Appendix A, in paragraph 74B(b)(ii), delete “5 April 2012” and substitute “13 June 2012”

306. In Appendix A, in paragraph 75(iv), delete “Allowances” and substitute “Other allowances and benefits, such as bonus or incentive pay, employer pension contributions, and allowances”

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

“75A. No points will be awarded if the salary referred to in paragraph 75 above is less than £40,000 per year where the applicant is applying in the Long Term Staff sub-category, unless the applicant is applying for leave to remain and previously had leave as:

(i) a Qualifying Work Permit Holder, or

(ii) a Tier 2 (Intra-Company Transfer) Migrant under the rules in place before 6 April 2011,

and has not been granted entry clearance in this or any other route since that grant of leave.”

308. In Appendix A, in paragraph 77E(d)(ii), delete “5 April 2012” and substitute “13 June 2012”

309. In Appendix A, after paragraph 78B(c)(ii), insert:

“(iia) If the post is a pupillage position for a barrister, the advertisements must have run for at least 28 days during the 24 month period immediately before the date that the Sponsor assigned the Certificate of Sponsorship to the applicant.”

310. In Appendix A, in paragraph 78B(c)(iv), delete “If (ii) and (iii) do not apply” and substitute “If (ii), (iia) and (iii) do not apply”

311. In Appendix A, at the end of paragraph 78B(c)(vi), delete “.” and substitute “ unless the job appears on the list of PhD-level occupation codes, as stated in the Codes of Practice in Appendix J.”

312. In Appendix A, in paragraph 79(iii), after “bonus or incentive pay,” insert “ employer pension contributions,”

313. In Appendix A, in paragraph 92, delete:

“(e) the migrant:

(i) is qualified to do the job in respect of which he is seeking leave as a Tier 2 (Minister of Religion) Migrant,

(ii) intends to base himself in the UK, and

(iii) will comply with the conditions of his leave, if his application is successful, and

(f) the Sponsor will maintain or accommodate the migrant.”

and substitute:

“(f) confirm that the migrant:

(i) is qualified to do the job in respect of which he is seeking leave as a Tier 2 (Minister of Religion) Migrant,

(ii) intends to base himself in the UK, and

(iii) will comply with the conditions of his leave, if his application is successful, and

(g) confirm that the Sponsor will maintain or accommodate the migrant.”

314. In Appendix A, delete paragraph 111(f) and substitute:

“(f) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the International Agreement subcategory and the applicant is applying for entry clearance or leave to enter or remain for the purpose of work as a Contractual Service Supplier, if either:

(i) the work is pursuant to a contract to supply services to the sponsor in the United Kingdom by an overseas undertaking established on the territory of a party to the General Agreement on Trade in Services or a similar trade agreement which has been concluded between the EU and another party or parties and which is in force, and which has no commercial presence in the European Union; and

(ii) the service which that undertaking is contracted to supply to the sponsor in the United Kingdom is a service falling within the scope of the sectors specified in the relevant commitments in respect of Contractual Service Suppliers as set out in the agreements mentioned at (i) above; and

(iii) the sponsor has, through an open tendering procedure or other procedure which guarantees the bona fide character of the contract, awarded a services contract for a period not exceeding 12 months to the applicant’s employer; and

(iv) the sponsor will be the final consumer of the services provided under that contract; and

(v) the applicant is a national of the country in which the overseas undertaking is established; and

(vi) the applicant possesses:

(1) a university degree or a technical qualification demonstrating knowledge of an equivalent level, and provides the original certificate of his qualification;

(2) where they are required by any relevant law, regulations or requirements in force in the United Kingdom in order to exercise the activity in question, professional qualifications; and

(3) 3 years' professional experience in the sector concerned, except:

(a) in the case of advertising and translation services, in which case the applicant must possess relevant qualifications and 3 years' professional experience;

(b) in the case of management consulting services and services related to management consulting (managers and senior consultants), in which case the applicant must possess a university degree and 3 years professional experience;

(c) in the case of technical testing and analysis services, in which case the applicant must possess a university degree or technical qualifications demonstrating technical knowledge and 3 years professional experience; and

(vii) the applicant has been employed, and provides the specified documents in paragraph 111-SD to show that he has been employed, by the service supplier for a period of at least one year immediately prior to the date of application.

(viii) the applicant is applying for leave to remain and holds a Certificate of Sponsorship issued in the International Agreement sub-category by the same sponsor, and for the purpose of the same contract to supply services, as was the case when the applicant was last granted entry clearance, leave to enter or remain.

(g) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the International Agreement subcategory and the applicant is coming for a purpose other than work as a Contractual Service Supplier, if the entry confirms that applicant is being sponsored:

(i) as an employee of an overseas government, or

(ii) as an employee of an international organisation established by international treaty signed by the UK or European Union, or

(iii) as a private servant in a diplomatic household under the provisions of the Vienna Convention on Diplomatic Relations, 1961, or in the household of an employee of an international organisation recognised by Her Majesty's Government, who enjoys certain privileges or immunity under UK or international law, and confirms the name of the individual who is employing them.”

315. In Appendix A, after paragraph 111, insert:

“111-SD (a) Where paragraph 111(f)(vii) refers to specified documents, those specified documents are:

(i) Formal payslips on company-headed paper covering the full specified period (The most recent payslip must be dated no earlier than 31 days before the date of the application); or

(ii) Payslips that are on un-headed paper or are printouts of online payslips covering the full specified period (The most recent payslip must be dated no earlier than 31 days before the date of the application), accompanied by a letter from the service supplier, on company headed paper and signed by a senior official, confirming the authenticity of the payslips; or

(iii) Personal bank or building society statements covering the full specified period, which clearly show:

- (1) the applicant's name,
- (2) the account number,
- (3) the date of the statement (The most recent statement must be dated no earlier than 31 days before the date of the application),
- (4) the financial institution's name and logo, and
- (5) transactions by the service supplier covering the full specified period;

or

(iv) A building society pass book, which clearly shows:

- (1) the applicant's name,
- (2) the account number,
- (3) the financial institution's name and logo, and
- (4) transactions by the service supplier covering the full specified period.

(b) If the applicant provides the bank or building society statements in (a)(iii):

(i) The statements must:

- (1) be printed on paper bearing the bank or building society's letterhead,
- (2) bear the official stamp of the bank on every page, or
- (3) be accompanied by a supporting letter from the issuing bank or building society, on company headed paper, confirming the authenticity of the statements provided;

(ii) The statements must not be mini-statements obtained from an Automated Teller Machine.”

316. In Appendix A delete paragraph 115B.

317. In Appendix A delete paragraph 115C.

318. In Appendix A delete paragraph 115CA.

319. In Appendix A delete paragraph 115D.

320. In Appendix A delete paragraph 115E.
321. In Appendix A delete paragraph 115F.
322. In Appendix A delete paragraph 115FA.
323. In Appendix A delete paragraph 115FB.
324. In Appendix A delete paragraph 115G.
325. In Appendix A delete paragraph 115H.
326. In Appendix A after paragraph 115A insert:

“115B. The Secretary of State shall be entitled to limit the number of Confirmations of Acceptance for Studies allocated to any specific Sponsor in any one period.

115C. The limit on the number of Confirmations of Acceptance for Studies allocated to specific Sponsors shall be known as the Tier 4 Interim Limit.

115CA. The interim limit implemented by HC1888 and effective in relation to Tier 4 between 6 April 2012 and 31 December 2012 shall be known as the Former Interim Limit.

115D. The Tier 4 Interim Limit will apply from 1 January 2013 to 30 June 2013 (inclusive) (the "Tier 4 Interim Limit Period").

115E. The Tier 4 Interim Limit will be applied to any Tier 4 Sponsor who

(i) is still subject to the former interim limit on 31 December 2012 and has applied for but not yet achieved HTS status and a valid and satisfactory full institutional inspection, review or audit from one of the following bodies:

(a) the Bridge Schools Inspectorate; or

(b) the Education and Training Inspectorate; or

(c) Estyn; or

(d) Education Scotland; or

(e) the Independent Schools Inspectorate; or

(f) Ofsted; or

(g) the Quality Assurance Agency for Higher Education; or

(h) The Schools Inspection Service; or is not:

(ii) the Foundation Programme Office;

(iii) the Yorkshire and Humber Strategic Health Authority;

(iv) an overseas higher education institution which has Highly Trusted Sponsor Status.

115F. A Tier 4 Sponsor who does not satisfy the requirements of paragraph 115E and is therefore subject to the Tier 4 Interim Limit is known as a Limited Sponsor.

115FA. No Confirmations of Acceptance for Studies will be allocated to a Limited Sponsor where:

(i) The Limited Sponsor did not apply for inspection, review or audit by the appropriate specified body by the relevant deadline, as listed below:

Specified body	Deadline
Quality Assurance Agency	9 September 2011
Independent Schools Inspectorate	9 September 2011
Bridge Schools Inspectorate	7 October 2011
School Inspection Service	7 October 2011
Education Scotland	11 November 2011
Education and Training Inspectorate N.I.	30 April 2012

or

(ii) The Limited Sponsor applied by the deadline specified in (i) above, and failed to meet the required standard to obtain a full institutional audit, inspection or review, except for where The Limited Sponsor requires a second institutional audit, inspection or review within 6 months of the initial audit, inspection or review as determined by the relevant body listed above; or

(iii) The Limited Sponsor applied for Highly Trusted Sponsor status on two occasions and has not been granted Highly Trusted Sponsor status.

115FB. A Limited Sponsor that is allocated no Confirmations of Acceptance for Studies further to paragraph 115FA is known as a Legacy Sponsor

115G. All Confirmations of Acceptance for Studies allocated by the Secretary of State to Limited Sponsors prior to 1 January 2013 and which have not been assigned to an applicant for entry clearance, leave to enter or leave to remain under Tier 4 prior to 1 January 2013 are withdrawn and the only Confirmations of Acceptance for Studies allocated to a Limited Sponsor are the Confirmations of Acceptance for Studies allocated in accordance with paragraph 115H below.

115H. The Tier 4 Interim Limit will be calculated as follows:

(i) A Limited Sponsor who has that status as at 1 January 2013 will be allocated:

(a) where the Limited Sponsor was subject to the Former Tier 4 Interim Limit for the entirety of the period 6 April 2012 to 31 December 2012, a number of Confirmations of Acceptance for Studies equal to two thirds of the number of Confirmations of Acceptance for Studies allocated to that Limited Sponsor for the period 6 April 2012 to 31 December 2012;

(b) where the Limited Sponsor had a Tier 4 Sponsor Licence for only part of the period 6 April 2012 to 31 December 2012, and was subject to the Former Tier 4 Interim Limit from the date on which it was granted a sponsor licence, a number of Confirmations of Acceptance for Studies equal to:

(i) the number of Confirmations of Acceptance for Studies allocated to that Limited Sponsor for the period it was licenced between 6 April 2012 to 31 December 2012;

(ii) multiplied by the appropriate factor such that the figure in (i) is equal to the number of Confirmations of Acceptance for Studies that would have been granted to that Limited Sponsor for a period of 6 months;

(c) where the Limited Sponsor had a Tier 4 Sponsor Licence for the entirety of the period 6 April 2012 to 31 December 2012 and was subject to the Former Tier 4 Interim Limit for only part of that period, a number of Confirmations of Acceptance for Studies equal to:

(i) the number of Confirmations of Acceptance for Studies allocated to that Limited Sponsor under the Tier 4 Interim Limit;

(ii) multiplied by the appropriate factor such that the figure in (i) is equal to the number of Confirmations of Acceptance for Studies that would have been granted to that Limited Sponsor for a period of 6 months;

(d) where the calculation in paragraphs (a) to (c) results in 0 or a negative number, the Limited Sponsor will be allocated 0 Confirmations of Acceptance for Studies under the Tier 4 Interim Limit;

(e) where the calculation in paragraphs (a) to (c) does not result in a whole number, the Limited Sponsor will be allocated a number of Confirmations of Acceptance for Studies equal to the nearest whole number (fractions will be rounded up to the nearest whole number).

115I. A Limited Sponsor will, on provision to the UK Border Agency of evidence that it meets the criteria set out in paragraph 115E above, be exempt from the Tier 4 Interim Limit from the date the UK Border Agency provides written confirmation that it is so exempt.”

327. In Appendix A paragraph 120 (ca) delete “(FIA)”.

328. In Appendix A paragraph 124 (g) delete “guidance published by the United Kingdom Border Agency.” and substitute:

“these immigration rules.”

329. In Appendix B, in Table 1, Row B, delete “level C1” and substitute “level B1”

330. In Appendix B, in Table 1, Row C, delete “level C1” and substitute “level B1”

331. In Appendix B, in paragraph 12, delete “rows D to I” and substitute “rows B to I”

332. In Appendix B, in paragraph 13, delete “row D” and substitute “rows B to D”

333. In Appendix B, at the end of paragraph 13(ii), delete “.” and substitute “, provided that when he was granted that leave he obtained points for having a knowledge of English equivalent to level B1 of the Council of Europe's Common European Framework for Language Learning or above.”

334. In Appendix C paragraph 1B delete paragraph (d) and substitute:

“(d) If the applicant is applying as a Tier 4 Migrant, an original loan letter from a financial institution regulated by either the Financial Services Authority or, in the case of overseas accounts, the official regulatory body for the country the institution is in and where the money is held, which is dated no more than 6 months before the date of the application and clearly shows:

- (1) the applicant's name,
- (2) the date of the letter,
- (3) the financial institution's name and logo,
- (4) the money available as a loan,
- (5) for applications for entry clearance, that the loan funds are or will be available to the applicant before he travels to the UK, unless the loan is an academic or student loan from the applicant's country's national government and will be released to the applicant on arrival in the UK,
- (6) there are no conditions placed upon the release of the loan funds to the applicant, other than him making a successful application as a Tier 4 Migrant, and
- (7) the loan is provided by the national government, the state or regional government or a government sponsored student loan company or is part of an academic or educational loans scheme.”

335. In Appendix C delete paragraph 13A and substitute;

“13A. In assessing whether the requirements of Appendix C, paragraph 11 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs this amount, up to a maximum of £1000, can be offset against the total maintenance requirement if he will be staying in accommodation arranged by the Tier 4 sponsor and he has paid this money to that Tier 4 sponsor.”

336. In Appendix C delete paragraph 21A and substitute;

“21A. In assessing whether the requirements of Appendix C, paragraph 16 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs this amount, up to a maximum of £1000, can be offset against the total maintenance requirement if he will be staying in accommodation arranged by the Tier 4 sponsor and he has paid this money to that Tier 4 sponsor.”

337. In Appendix E, after paragraph (n), insert new paragraph:

“(o) Where the Relevant Points Based System Migrant is applying for entry clearance or leave to remain at the same time as the applicant, and is not required to provide evidence of maintenance funds because of the provisions in paragraph 5(b) of Appendix C, the applicant is also not required to provide evidence of maintenance funds.”

338. In Appendix FM, in the list of sections before the General section, after “Section R-ILRP: Requirements for indefinite leave to remain (settlement) as a partner” insert “Section S-ILR: Suitability-indefinite leave to remain”.
339. In Appendix FM in the list of sections before the General section delete “R-LTR-C” and substitute “R-LTRC”.
340. In Appendix FM paragraph GEN.1.1. after “humanitarian protection” insert “(and the applicant cannot seek leave to enter or remain in the UK as their family member under Part 11 of these rules).”.
341. In Appendix FM paragraph GEN.1.9.(b) after “GEN.1.9.(a)” insert “, or is considered by the Secretary of State under paragraph A277C of these rules.”.
342. In Appendix FM paragraph S-EC.1.4. delete “been convicted of an offence for which they have been sentenced to imprisonment for at least 12 months.” and substitute “:
- (a) been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 4 years; or
 - (b) been convicted of an offence for which they have been sentenced to a period of imprisonment of at least 12 months but less than 4 years, unless a period of 10 years has passed since the end of the sentence; or
 - (c) been convicted of an offence for which they have been sentenced to a period of imprisonment of less than 12 months, unless a period of 5 years has passed since the end of the sentence.
- Where this paragraph applies, unless refusal would be contrary to the Human Rights Convention or the Convention and Protocol Relating to the Status of Refugees, it will only be in exceptional circumstances that the public interest in maintaining refusal will be outweighed by compelling factors.”.
343. In Appendix FM paragraph S-EC.2.1. delete “2.4. apply” and substitute “2.5. apply”.
344. In Appendix FM after paragraph S-EC.2.4. insert “
- S-EC.2.5. The exclusion of the applicant from the UK is conducive to the public good because:
- (a) within the 12 months preceding the date of the application, the person has been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record; or
 - (b) in the view of the Secretary of State:
 - (i) the person’s offending has caused serious harm; or
 - (ii) the person is a persistent offender who shows a particular disregard for the law.”.
345. In Appendix FM paragraph R-LTRP.1.1.(b) after “limited” insert “or indefinite”.

346. In Appendix FM paragraph R-LTRP.1.1.(c)(ii) delete “must meet” and substitute “meets”.
347. In Appendix FM paragraph R-LTRP.1.1.(c)(ii) delete “and” and substitute “or”.
348. In Appendix FM after paragraph R-LTRP.1.1.(c)(ii) delete “(iii) paragraph EX.1. has not been applied; or”.
349. In Appendix FM paragraph E-LTRP.2.1.(b) after “partner” insert “, or was granted pending the outcome of family court or divorce proceedings”.
350. In Appendix FM paragraph E-LTRP.2.1.(c) after “temporary admission” insert “or temporary release (unless paragraph EX.1. applies).”.
351. In Appendix FM paragraph E-LTRP.2.2. delete “unless paragraph EX. applies” and substitute “unless paragraph EX.1. applies”.
352. In Appendix FM paragraph D-LTRP.1.2. after “30 months,” insert “and subject to a condition of no recourse to public funds unless the Secretary of State deems such recourse to be appropriate,”.
353. In Appendix FM paragraph D-LTRP.1.2. before “will be eligible” insert “they”.
354. In Appendix FM paragraph R-ILRP.1.1.(c) delete “Section S-LTR: Suitability-leave to remain” and substitute “Section S-ILR: Suitability-indefinite leave to remain”.
355. In Appendix FM after paragraph R-ILRP.1.1 insert
- “Section S-ILR: Suitability for indefinite leave to remain**
- S-ILR.1.1. The applicant will be refused indefinite leave to remain on grounds of suitability if any of paragraphs S-ILR.1.2. to 1.9. apply.
- S-ILR.1.2. The applicant is at the date of application the subject of a deportation order.
- S-ILR.1.3. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for at least 4 years.
- S-ILR.1.4. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 4 years but at least 12 months, unless a period of 15 years has passed since the end of the sentence.

S-ILR.1.5. The presence of the applicant in the UK is not conducive to the public good because they have been convicted of an offence for which they have been sentenced to imprisonment for less than 12 months, unless a period of 7 years has passed since the end of the sentence.

S-ILR.1.6. The applicant has, within the 24 months preceding the date of the application, been convicted of or admitted an offence for which they received a non-custodial sentence or other out of court disposal that is recorded on their criminal record.

S-ILR.1.7. The presence of the applicant in the UK is not conducive to the public good because, in the view of the Secretary of State, their offending has caused serious harm or they are a persistent offender who shows a particular disregard for the law.

S-ILR.1.8. The presence of the applicant in the UK is not conducive to the public good because their conduct (including convictions which do not fall within paragraphs S-ILR.1.3. to 1.6.), character, associations, or other reasons, make it undesirable to allow them to remain in the UK.

S-ILR.1.9. The applicant has failed without reasonable excuse to comply with a requirement to-

- (a) attend an interview;
- (b) provide information;
- (c) provide physical data; or
- (d) undergo a medical examination or provide a medical report.

S-ILR.2.1. The applicant will normally be refused on grounds of suitability if any of paragraphs S-ILR.2.2. to 2.4. apply.

S-ILR.2.2. Whether or not to the applicant's knowledge –

- (a) false information, representations or documents have been submitted in relation to the application (including false information submitted to any person to obtain a document used in support of the application); or
- (b) there has been a failure to disclose material facts in relation to the application.

S-ILR.2.3. One or more relevant NHS body has notified the Secretary of State that the applicant has failed to pay charges in accordance with the relevant NHS regulations on charges to overseas visitors and the outstanding charges have a total value of at least £1000.

S-ILR.2.4. A maintenance and accommodation undertaking has been requested under paragraph 35 of these Rules and has not been provided.

- S-ILR.3.1. When considering whether the presence of the applicant in the UK is not conducive to the public good, any legal or practical reasons why the applicant cannot presently be removed from the UK must be ignored.”.
356. In Appendix FM paragraph E-ILRP.1.5. delete “The applicant must at the date of application have no unspent convictions.” and substitute “DELETED.”.
357. In Appendix FM paragraph D-ILRP.1.2.(a) delete “the applicant has an unspent conviction” and substitute “paragraph S-ILR.1.5. or S-ILR.1.6. applies”.
358. In Appendix FM paragraph D-ILRP.1.3. delete “the requirements for indefinite leave to remain as a partner, or” and substitute “all the eligibility requirements for indefinite leave to remain as a partner, and does not qualify for”.
359. In Appendix FM paragraph D-ILRP.1.3. delete “unless paragraph EX.1. applies. Where paragraph EX.1. applies,” and substitute “unless the applicant meets the requirements in paragraph R-LTRP.1.1.(a), (b) and (d) for limited leave to remain as a partner. Where they do,”.
360. In Appendix FM paragraph D-ILRP.1.3. after “D-LTRP.1.2.” insert “and subject to a condition of no recourse to public funds unless the Secretary of State deems such recourse to be appropriate.”.
361. In Appendix FM paragraph EX.1.(a)(i)(aa) after “years” insert “, or was under the age of 18 years when the applicant was first granted leave on the basis that this paragraph applied”.
362. In Appendix FM paragraph BPILR.1.1.(c) delete “Section S-LTR: Suitability-leave to remain” and substitute “Section S-ILR: Suitability-indefinite leave to remain”.
363. In Appendix FM paragraph E-BPILR.1.1. delete “1.5.” and substitute “1.4.”.
364. In Appendix FM delete paragraph “E-BPILR.1.5. The applicant must at the date of application have no unspent convictions.”.
365. In Appendix FM paragraph D-BPILR.1.2. delete “the applicant has an unspent conviction” and substitute “ paragraph S-ILR.1.5. or S-ILR.1.6. applies”.
366. In Appendix FM paragraph DVILR.1.1.(c) delete “Section S-LTR: Suitability-leave to remain” and substitute “Section S-ILR: Suitability-indefinite leave to remain”.
367. In Appendix FM paragraph E-DVILR.1.1. delete “ to 1.4.” and substitute “and 1.3.”.
368. In Appendix FM delete paragraph “E-DVILR.1.4. The applicant must at the date of application have no unspent convictions.”.
369. In Appendix FM paragraph D-DVILR.1.2. delete “the applicant has an unspent conviction” and substitute “paragraph S-ILR.1.5. or S-ILR.1.6. applies,”.

370. In Appendix FM paragraph E-ECC.1.6. insert at the end “, and

- (a) the applicant’s parent’s partner under Appendix FM is also a parent of the applicant;
or
- (b) the applicant’s parent has had and continues to have sole responsibility for the child’s upbringing; or
- (c) there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child’s care.”.

371. In Appendix FM after paragraph D-ECC.1.2. delete “Section R-LTR-C:” and substitute “Section R-LTRC:”.

372. In Appendix FM after the amended heading “Section R-LTRC: Requirements for leave to remain as a child” delete “R-LTR-C.1.1.” and substitute “R-LTRC.1.1.”.

373. In Appendix FM in the amended paragraph R-LTRC.1.1. delete

“(c) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and

(d) the applicant must meet all of the requirements of Section E-LTRC: Eligibility for leave to remain as a child.” and substitute

“and either

(c)(i) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and

(ii) the applicant meets all of the requirements of Section E-LTRC: Eligibility for leave to remain as a child; or

(d)(i) the applicant must not fall for refusal under any of the grounds in Section S-LTR: Suitability-leave to remain; and

(ii) the applicant meets the requirements of paragraphs E-LTRC.1.2.-1.6.; and

(iii) a parent of the applicant has been or is at the same time being granted leave to remain under paragraph D-LTRP.1.2. or D-LTRPT.1.2. or indefinite leave to remain under this Appendix (except as an adult dependent relative).”.

374. In Appendix FM paragraph E-LTRC.1.1. insert at the end “(except where paragraph R-LTRC.1.1.(d)(ii) applies).”.

375. In Appendix FM delete “E-LTRC.1.6. One of the applicant’s parents must be in the UK with leave to enter or remain as, or have applied for leave to remain or indefinite leave to remain as, a partner or parent under this Appendix (referred to in this section as the “applicant’s parent”).” and substitute

“E-LTRC.1.6. One of the applicant’s parents (referred to in this section as the “applicant’s parent”) must be in the UK and have leave to enter or remain or indefinite leave to remain, or is at the same time being granted leave to remain or indefinite leave to remain, under this Appendix (except as an adult dependent relative), and

- (a) the applicant’s parent’s partner under Appendix FM is also a parent of the applicant;
or
- (b) the applicant’s parent has had and continues to have sole responsibility for the child’s upbringing or the applicant normally lives with this parent and not their other parent;
or
- (c) there are serious and compelling family or other considerations which make exclusion of the child undesirable and suitable arrangements have been made for the child’s care.”.

376. In Appendix FM paragraph D-LTRC.1.1. delete “, and if the applicant’s parent is granted indefinite leave to remain the applicant will be granted indefinite leave to remain” and substitute “. To qualify for indefinite leave to remain as a child of a person with indefinite leave to remain as a partner or parent, the applicant must meet the requirements of paragraph 298 of these rules.”.

377. In Appendix FM paragraph R-LTRPT.1.1.(b) after “limited” insert “or indefinite”.

378. In Appendix FM paragraph R-LTRPT.1.1.(b) after “parent” insert “or partner”.

379. In Appendix FM paragraph R-LTRPT.1.1.(c)(ii) delete “must meet” and substitute “meets”.

380. In Appendix FM paragraph R-LTRPT.1.1.(c)(ii) delete “and” and substitute “or”.

381. In Appendix FM after paragraph R-LTRPT.1.1.(c)(ii) delete “(iii) paragraph EX.1. has not been applied; or”.

382. In Appendix FM paragraph E-LTRPT.2.2.(a) after “application” insert “, or where the child has turned 18 years of age since the applicant was first granted entry clearance or leave to remain as a parent under this Appendix, must not have formed an independent family unit or be leading an independent life”.

383. In Appendix FM paragraph E-LTRPT.2.3.(a) after “the child” insert “or the child normally lives with the applicant and not their other parent (who is a British Citizen or settled in the UK)”.

384. In Appendix FM paragraph E-LTRPT.2.3.(b)(ii) after “applicant” insert “(which here includes a person who has been in a relationship with the applicant for less than two years prior to the date of application)”.

385. In Appendix FM paragraph E-LTRPT.3.1.(b) after “less” insert “, unless that leave was granted pending the outcome of family court or divorce proceedings”.

386. In Appendix FM paragraph E-LTRPT.3.1.(c) after “temporary admission” insert “or temporary release (unless paragraph EX.1. applies).”.
387. In Appendix FM paragraph D-LTRPT.1.2. after “30 months,” insert “and subject to a condition of no recourse to public funds unless the Secretary of State deems such recourse to be appropriate.”.
388. In Appendix FM paragraph D-LTRPT.1.2. before “will be eligible” insert “they”.
389. In Appendix FM paragraph R-ILRPT 1.1.(c) delete “Section S-LTR: Suitability-leave to remain” and substitute “Section S-ILR: Suitability-indefinite leave to remain”.
390. In Appendix FM paragraph E-ILRPT.1.4. delete “The applicant must at the date of application have no unspent convictions.” and substitute “DELETED.”.
391. In Appendix FM paragraph D-ILRPT.1.2(a) delete “the applicant has an unspent conviction” and substitute “paragraph S-ILR.1.5. or S-ILR.1.6. applies”.
392. In Appendix FM paragraph D-ILRPT.1.3. delete “the requirements for indefinite leave to remain as a parent, or” and substitute “all the eligibility requirements for indefinite leave to remain as a parent, and does not qualify for”.
393. In Appendix FM paragraph D-ILRPT.1.3. delete “unless paragraph EX.1. applies. Where paragraph EX.1. applies,” and substitute “unless the applicant meets the requirements in paragraph R-LTRPT.1.1.(a), (b) and (d) for limited leave to remain as a parent. Where they do,”.
394. In Appendix FM paragraph D-ILRPT.1.3. after “D-LTRPT.1.2.” insert “and subject to a condition of no recourse to public funds unless the Secretary of State deems such recourse to be appropriate.”.
395. In Appendix FM paragraph R-ILRDR.1.1.(c) delete “Section S-LTR: Suitability-leave to remain” and substitute “Section S-ILR: Suitability-indefinite leave to remain”.
396. In Appendix FM paragraph E-ILRDR.1.1. delete “1.6.” and substitute “1.5.”.
397. In Appendix FM delete paragraph “E-ILRDR.1.6. To qualify for indefinite leave to remain the applicant must not at the date of application have any unspent convictions.”.
398. In Appendix FM paragraph D-ILRDR.1.2 delete “the applicant has an unspent conviction” and substitute “paragraph S-ILR.1.5. or S-ILR.1.6. applies”.
399. In Appendix FM-SE paragraph 1(a) after sub-paragraph 1(a)(iii) insert

“(iv) cover the period(s) specified.

(v) be:

- (1) on official bank stationery; or
- (2) electronic bank statements from an online account (defined as one that operates solely over the internet and sends bank statements to its customers electronically) which are either accompanied by a letter from the bank on its headed stationery confirming that the documents are authentic or which bear the official stamp of the issuing bank on every page.”.

400. In Appendix FM-SE paragraph 1 after sub-paragraph (a) insert

“(aa) Where a bank statement is specified in this Appendix, a building society statement, a building society pass book, a letter from the applicant's bank or building society, or a letter from a financial institution regulated by the Financial Services Authority or, for overseas accounts, the appropriate regulatory body for the country in which the institution operates and the funds are located, may be submitted as an alternative to a bank statement(s) provided that:

(1) the requirements in paragraph 1(a)(i)-(iv) are met as if the document were a bank statement; and

(2) a building society pass book must clearly show:

- (i) the account number;
- (ii) the building society's name and logo; and
- (iii) the information required on transactions, funds held and time period(s) or as otherwise specified in this Appendix in relation to bank statements; and/or

(3) a letter must be on the headed stationery of the bank, building society or other financial institution and must clearly show:

- (i) the account number,
- (ii) the date of the letter;
- (iii) the financial institution's name and logo; and
- (iv) the information required on transactions, funds held and time period(s) or as otherwise specified in this Appendix in relation to bank statements.”.

401. In Appendix FM-SE after paragraph 1(b) insert

“(bb) Wage slips must be:

- (i) on company-headed paper; or
- (ii) stamped and signed by the employer; or
- (iii) accompanied by a letter from the employer, on company-headed paper and signed by a senior manager, confirming that they are authentic.”.

402. In Appendix FM-SE paragraph 1 delete “(k) The Entry Clearance Officer or Secretary of State should normally refuse an application which does not provide the evidence specified in this Appendix. However, where document(s) have been submitted, but not as specified, and the Entry Clearance Officer or Secretary of State considers that, if the specified document(s) were submitted, it would result in a grant of leave, they should contact the applicant or their representative in writing or otherwise to request the document(s) be submitted within a reasonable timeframe. Examples of documents submitted not as specified include:

- a) A document missing from a series, e.g. a bank statement;
- b) A document in the wrong format; or
- c) A document that is a copy rather than the original.

If the applicant does not submit the document(s) as requested, the caseworker may refuse the application. Where the specified document(s) cannot be supplied (e.g. because they are not available in a particular country or have been permanently lost), the caseworker has discretion not to apply the requirement for the specified document(s) or to request alternative or additional information or documents be submitted by the applicant.”.

403. In Appendix FM-SE after paragraph C insert

“D.(a) In deciding an application in relation to which this Appendix states that specified documents must be provided, the Entry Clearance Officer or Secretary of State (“the decision-maker”) will consider documents that have been submitted with the application, and will only consider documents submitted after the application where sub-paragraph (b) or (e) applies.

(b) If the applicant:

(i) Has submitted:

(aa) A sequence of documents and some of the documents in the sequence have been omitted (e.g. if one bank statement from a series is missing);

(bb) A document in the wrong format; or

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

(ii) Has not submitted a specified document,

the decision-maker may contact the applicant or his representative in writing or otherwise, and request the document(s) or the correct version(s). The material requested must be received by the UK Border Agency or Border Force at the address specified in the request within a reasonable timescale specified in the request.

(c) The decision-maker will not request documents where he or she does not anticipate that addressing the error or omission referred to in sub-paragraph (b) will lead to a grant because the application will be refused for other reasons.

(d) If the applicant has submitted:

(i) A document in the wrong format; or

(ii) A document that is a copy and not an original document,

the application may be granted exceptionally, providing the decision-maker is satisfied that the document(s) is genuine and that the applicant meets the requirement to which the document relates. The decision-maker reserves the right to request the specified original document(s) in the correct format in all cases where sub-paragraph (b) applies, and to refuse applications if this material is not provided as set out in sub-paragraph (b).

(e) Where the decision-maker is satisfied that there is a valid reason why a specified document(s) cannot be supplied, e.g. because it is not issued in a particular country or

has been permanently lost, he or she may exercise discretion not to apply the requirement for the document(s) or to request alternative or additional information or document(s) be submitted by the applicant.”.

404. In Appendix FM-SE paragraph 1 delete “(l)” and substitute “(k)”.

405. In Appendix FM-SE paragraph 1 insert at the end

“(l) Where this Appendix requires the applicant to provide specified evidence relating to a period which ends with the date of application, that evidence, or the most recently dated part of it, must be dated no earlier than 28 days before the date of application.”.

406. In Appendix FM-SE delete paragraph 2 and substitute

“2. In respect of salaried employment in the UK, all of the following evidence must be provided:

(a) Wage slips covering:

(i) a period of 6 months prior to the date of application if the applicant has been employed by their current employer for at least 6 months (and where paragraph 13(b) of this Appendix does not apply); or

(ii) any period of salaried employment in the period of 12 months prior to the date of application if the applicant has been employed by their current employer for less than 6 months (or at least 6 months but the person does not rely on paragraph 13(a) of this Appendix), or in the financial year(s) relied upon by a self-employed person.

(b) A letter from the employer(s) who issued the wage slips at paragraph 2(a) confirming:

(i) the person's employment and gross annual salary;

(ii) the length of their employment;

(iii) the period over which they have been or were paid the level of salary relied upon in the application; and

(iv) the type of employment (permanent, fixed-term contract or agency).

(c) Personal bank statements corresponding to the same period(s) as the wage slips at paragraph 2(a), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.”.

407. In Appendix FM-SE after paragraph 2 insert

“2A. (i) In respect of salaried employment in the UK (paragraph 2 of this Appendix), statutory or contractual maternity, paternity, adoption or sick pay in the UK (paragraph 5 or 6 of this Appendix), or a director’s salary paid to a self-employed person (paragraph 9 of this Appendix), the applicant may, in addition to the wage slips and personal bank statements required under that paragraph, submit the P60 for the relevant period(s) of

employment relied upon (if issued). If they do not, the Entry Clearance Officer or Secretary of State may grant the application if otherwise satisfied that the requirements of this Appendix relating to that employment are met. The Entry Clearance Officer or Secretary of State may request that the applicant submit the document(s) in accordance with paragraph D of this Appendix.

(ii) In respect of salaried employment in the UK (paragraph 2 of this Appendix), or statutory or contractual maternity, paternity, adoption or sick pay in the UK (paragraph 5 or 6 of this Appendix), the applicant may, in addition to the letter from the employer(s) required under that paragraph, submit a signed contract of employment. If they do not, the Entry Clearance Officer or Secretary of State may grant the application if otherwise satisfied that the requirements of this Appendix relating to that employment are met. The Entry Clearance Officer or Secretary of State may request that the applicant submit the document(s) in accordance with paragraph D of this Appendix.”.

408. In Appendix FM-SE paragraph 5 delete “(a) A P60 for the relevant period or periods of employment relied upon prior to commencement of the maternity, paternity or adoption leave (if issued).” and substitute

“(a) Personal bank statements corresponding to the same period(s) as the wage slips at paragraph 5(b), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.”.

409. In Appendix FM-SE paragraph 6 delete “(a) A P60 for the relevant period or periods of employment relied upon prior to commencement of the sick leave (if issued).” and substitute

“(a) Personal bank statements corresponding to the same period(s) as the wage slips at paragraph 6(b), showing that the salary has been paid into an account in the name of the person or in the name of the person and their partner jointly.”.

410. In Appendix FM-SE paragraph 7(b)(i) after “HMRC” insert “(a copy or print-out)”.

411. In Appendix FM-SE paragraph 7(c) after “self-employed” insert “if available.”.

412. In Appendix FM-SE paragraph 7(c) delete “This evidence must be either an original or a certified copy of the registration document issued by HMRC.”.

413. In Appendix FM-SE paragraph 7(e) delete “monthly”.

414. In Appendix FM-SE paragraph 7(f) delete “Monthly”.

415. In Appendix FM-SE paragraph 7(h) delete “(i) The organisation's latest audited annual accounts with:

- (1) the name of the accountant clearly shown; and,
- (2) the accountant must be a member of an accredited accounting body specified in paragraph 19(g)(ii) of Appendix A of these rules;” and substitute

“(i) (aa) If the applicant’s business is a registered company that is required to produce annual audited accounts, the latest such accounts; or

(bb) If the applicant's business is not required to produce annual audited accounts, the latest unaudited accounts and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognised Supervisory Body (as defined in the Companies Act 2006);”.

416. In Appendix FM-SE paragraph 7(h)(ii) after “VAT return” insert “(a copy or print-out)”.

417. In Appendix FM-SE paragraph 9 insert

“(a) Where the self-employed person is listed as a director of the company and draws a salary from the gross profits of the company:

(i) wage slips covering the same period as the Company Tax Return CT600; and

(ii) evidence of payment of PAYE and Class 1 National Insurance contributions where applicable covering the same period as the Company Tax Return CT600, where this evidence is available at the date of application.”.

418. In Appendix FM-SE paragraph 9 delete “(c) Latest Notice to file a Company Tax Return – CT603 and Company Tax Return – CT600 (both parts must be supplied).” and substitute

“(c) Company Tax Return – CT600 (a copy or print-out) and evidence this has been filed with HMRC, such as an electronic acknowledgment from HMRC.”.

419. In Appendix FM-SE paragraph 9 delete “(d) The organisation's latest audited annual accounts with:

(i) the name of the accountant clearly shown; and

(ii) the accountant must be a member of an accredited accounting body specified in paragraph 19(g)(ii) of Appendix A of these rules.” and substitute

“(d) (i) If the applicant's business is a registered company that is required to produce annual audited accounts, the latest such accounts; or

(ii) If the applicant's business is not required to produce annual audited accounts, the latest unaudited accounts and an accountant's certificate of confirmation, from an accountant who is a member of a UK Recognised Supervisory Body (as defined in the Companies Act 2006).”.

420. In Appendix FM-SE paragraph 9(e), delete “Monthly”.

421. In Appendix FM-SE paragraph 9(f), delete “Monthly”.

422. In Appendix FM-SE paragraph 9(h)(i) after “VAT return” insert “(a copy or print-out)”.

423. In Appendix FM-SE paragraph 10(a)(i) delete “(1) The title deeds of the property; or” and substitute “(1) A copy of the title deeds of the property or of the title register from the Land Registry (or overseas equivalent); or”.

424. In Appendix FM-SE paragraph 10(a)(ii) delete “Monthly”.

425. In Appendix FM-SE paragraph 10(b)(iii) delete “Monthly”.

426. In Appendix FM-SE paragraph 10(c)(i) delete “Monthly”.
427. In Appendix FM-SE paragraph 10(d)(ii) delete “Monthly”.
428. In Appendix FM-SE paragraph 10(e)(i)(1) delete “HMRC” and substitute “The Department for Work and Pensions”.
429. In Appendix FM-SE paragraph 10(e)(ii) delete “monthly”.
430. In Appendix FM-SE paragraph 10(f)(ii) delete “Monthly”.
431. In Appendix FM-SE paragraph 10(g)(ii) delete “Monthly”.
432. In Appendix FM-SE paragraph 11(a) delete “Monthly”.
433. In Appendix FM-SE paragraph 12(b) delete “monthly”.
434. In Appendix FM-SE paragraph 12A(a)(iii) delete “Monthly”.
435. In Appendix FM-SE paragraph 13(a) after “will be” insert “(where paragraph 13(b) does not apply)”.
436. In Appendix FM-SE paragraph 13(b) after “6 months” insert “(or at least 6 months but the person does not rely on paragraph 13(a)),”.
437. In Appendix FM-SE paragraph 13(e) insert at the end “The requirements of this Appendix for specified evidence relating to these forms of income shall apply as if references to the date of application were references to the end of the relevant financial year(s).”.
438. In Appendix FM-SE paragraph 18 insert at the end
“(d) Gross income from employment income paid at an hourly rate will be counted on the same basis as income from salaried employment and the requirements of this Appendix for specified evidence relating to salaried employment shall apply as if references to salary were references to income from employment paid at an hourly rate.”.
439. In Appendix FM-SE paragraph 19(c) after “will be” insert “any salary drawn from the gross profits of the company and”.
440. In Appendix FM-SE paragraph 19 insert at the end
“(d) Where self-employment income is being used to meet the financial requirement for an initial application for leave to remain as a partner under Appendix FM by an applicant who used such income to meet that requirement in an application for entry clearance as a fiancé(e) or proposed civil partner under that Appendix in the last 12 months, the Secretary of State may continue to accept the same level and evidence of self-employment income that was accepted in granting the application for entry clearance, provided that there is evidence of ongoing self-employment at the date of the application for leave to remain.”.

441. In Appendix FM-SE paragraph 20 before (d) insert

“(cc) The amount of rental income from property received before any management fee was deducted may be counted.”.

442. Delete Appendix G and substitute:

“Appendix G - Countries and Territories participating in the Tier 5 Youth Mobility Scheme and annual allocations of places for 2013

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

- Australia - 35,000 places
- Canada - 5,500 places
- Japan - 1,000 places
- New Zealand - 10,000 places
- Monaco - 1,000 places

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

- Taiwan - 1,000 places
- South Korea - 1,000 places”

443. In Appendix J, in paragraph 2(a), delete “(c) does not apply,” and substitute “(c), (ca) or Table 5 do not apply,”

444. In Appendix J, after paragraph 2(c), insert new paragraph:

“(ca) Where the entry for the occupation in Table 1 below refers to ‘named researchers’, the Resident Labour Market Test is deemed to have been passed as no other individual could fill the post, and (a) does not apply.”

445. In Appendix J, at the end of paragraph 2(d)(ii), delete “ or”

446. In Appendix J, at the end of paragraph 2(d)(iii), delete “.” and substitute “,”

447. In Appendix J, after paragraph 2(d)(iii), insert:

“(iv) pupillage positions for barristers, or

(v) Positions in the NHS where the Resident Labour Market Test includes advertising on NHS Jobs between 19 November 2012 and 6 April 2013.”

(e) The Sponsor may use recruitment agencies and head-hunters to carry out a resident labour market test on its behalf, providing the requirements in (a) to (d) are met.”

448. In Appendix J, in each of the tables, delete all instances of “Head-hunters (without national advertising), for jobs where the annual salary is at least £40,000”

449. In Appendix J, in Table 2, in the second column of the row containing “2411 Solicitors and lawyers, judges and coroners”, after the salary rates for “Solicitors and Lawyers (elsewhere in the UK)”, insert:

“Barristers

- Pupils in London: £12,000
- Pupils in the rest of the UK: £12,000
- Newly qualified barristers (post pupillage) in London: £30,000
- Newly qualified barristers (post pupillage) in the rest of the UK: £25,000
- Qualified barrister with 3 years experience obtained post-pupilage, in London: £35,000
- Qualified barrister with 3 years experience obtained post-pupilage, rest of UK: £30,500”

450. In Appendix J, in Table 2, in the third column of the row containing “2411 Solicitors and lawyers, judges and coroners”, insert a new entry to the end of the list of publications:

“• Counsel Magazine (for barristers only)”

451. In Appendix J, in Table 2, in the third column of the row containing “2411 Solicitors and lawyers, judges and coroners”, insert new entries to the end of the list of websites:

- “• www.pupillages.com (for barristers only)
- www.counsellmagazine.co.uk (for barristers only)”

452. In Appendix M, in the table, after the row containing “England Netball”, insert new row:

Netball	Netball Northern Ireland
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453. In Appendix N, after the entry for “IAESTE” in the table, insert new entry:

Intensive Korean Public School English Teacher Training Programme	A customised in-service continuing professional development programme for very experienced Korean English teachers who have been specially selected.	University of Chichester	Work Experience Programme Maximum 12 months	England
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454. In Appendix N, in the second column of the entry in the table for "Overseas Fellows Post", delete “the Postgraduate Medical Education and Training Board” and substitute “the General Medical Council”

455. In Appendix O, in the table, after the row containing “Cambridge English: Financial (also known as International Certificate in Financial English)”, insert new rows:

Cambridge IGCSE English as a First Language (Syllabus 0500 & 0522)	Cambridge International Examinations	B1 B2	No expiry	Certificate Supplementary Certifying Statement with breakdown of component grades
Cambridge IGCSE English as a Second Language (Syllabus 0510 & 0511)	Cambridge International Examinations	A2 B1 B2	No expiry	Certificate Supplementary Certifying Statement with breakdown of component grades

456. In Appendix P, at the end of paragraph 7(x), delete “.” and substitute “;”

457. In Appendix P, after paragraph 7(x), insert:

“(xi) Financial institutions in Bangladesh that do not satisfactorily verify financial statements, set out in Table 11;

(xii) Financial institutions in Bangladesh whose financial statements are accepted, set out in Table 12.”

458. In Appendix P, after Table 10, insert new tables:

“Table 11: Financial institutions that do not satisfactorily verify financial statements – Bangladesh

Name of Financial Institution
Agrani Bank Limited
Al-Arafah Islami Bank Limited
Ansar-Vidipi Bank
Bangladesh Commerce Bank Limited
Bangladesh Development Bank Ltd
Bangladesh Krishi Bank
Bangladesh Small Industries and Commerce (BASIC) Bank Limited
Bank Alfalah Limited
Bank Asia Limited
Co-operative Bank
Dhaka Bank Limited
Dutch Bangla Bank Limited
Export Import Bank of Bangladesh Limited
Grameen Bank
Habib Bank Limited
International Finance Investment and Commerce Bank Limited
Islami Bank Bangladesh Limited

Jamuna Bank Limited
Janata Bank Limited
Karmashangstan Bank
Mercantile Bank Limited
National Bank Limited
National Bank of Pakistan
Prime Bank Limited
Rupali Bank Limited
Social Islami Bank Limited
Sonali Bank Limited
Standard Bank Limited
The City Bank Limited
ICB Islamic Bank Limited
The Premier Bank Limited
Trust Bank Limited
United Commercial Bank Limited
Uttara Bank Limited
Woori Bank

Table 12: Financial institutions whose financial statements are accepted – Bangladesh

Name of Financial Institution
AB Bank Limited
Eastern Bank Limited
National Credit and Commerce Bank Ltd
Southeast Bank Ltd
One Bank Ltd
Mutual trust Bank Ltd
BRAC Bank Ltd
First Security Islami Bank Ltd
Shahjalal Islami Bank Ltd
Standard Chartered Bank
State Bank of India
Citi Bank
Commercial Bank of Ceylon Ltd
The Hong Kong and Shanghai Banking Corporation Ltd

”

459. In Appendix S, delete paragraph 19 and substitute:

“19. Dependants of migrants in the categories covered by this appendix will be granted leave in line with that granted to the main applicant in this appendix.”

460. Delete Appendix 3.

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
PRESENTED TO PARLIAMENT ON 22 NOVEMBER 2012 (HC 760)**

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 purposes of these changes are:

- To implement changes for entrepreneurs and investors in Tier 1 of the Points-Based System;
- To implement changes in Tier 2 of the Points-Based System to increase the maximum stay in the UK for senior intra-company transferees earning £150,000 or above from 5 years to 9 years, make provision for barristers to apply, and make the operation of 12-month “cooling-off periods” more flexible for applicants;
- To clarify the absences from the UK that are permitted in calculating the continuous residence requirement for work-related settlement;
- To make a number of minor changes to Tier 4 of the Points-Based System;
- To set out the annual allocations of places for the Youth Mobility Scheme in Tier 5;
- To make provisions for workers covered by the UK’s international trade commitments in Tier 5;
- To clarify for the Tier 5 International Agreement sub category that the employer for a private servant in a diplomatic household must be a diplomat or an employee of an international organisation enjoying certain privileges and immunity under UK or international law, and not a family member;
- To make other minor changes and corrections to Points-Based System categories;
- To make a number of changes and clarifications to the Rules on family and private life;
- To make a technical change to the Rules to provide for the extension of online applications to new immigration routes. The current option of making an application by post or in person by making an appointment at a Public Enquiry Office will at present continue but the option of making an online application will be permitted where online applications are available for the immigration route under which the applicant is applying. As such, this change provides an alternative online process for migrants in addition to existing application routes. This change supports the shift towards online services to help transform the relationship between UK Border Agency and those subject to immigration control;

This Statement of Changes can be viewed at
<http://www.ind.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/>

- Apply a new criminality threshold to all type of applications;
- Remove the references to unspent convictions as a requirement to make a successful application for indefinite leave;
- Make corresponding changes to the periods before a deportation order will normally be revoked;
- Introduce a re-entry ban of five years for any offender who leaves the UK as a requirement of a conditional caution in line with section 134 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012;
- Introduce a discretionary power to curtail leave if a person commits an offence within the first six months of being given leave to enter the UK and is sentenced to a period of imprisonment.

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

3.1 The Committee is invited to note that this Statement of Changes is accompanied by amended guidance which is being published on the UK Border Agency website at www.ukba.homeoffice.gov.uk/ and <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/statementsofchanges/> on the same date as these rules are laid before Parliament, namely 22 November 2012.

4. Legislative Context

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

4.2 The annual allocations for the Youth Mobility Scheme in paragraph 442 and some changes to the Tier 4 Points-Based System in paragraphs 316 to 326 will come into force from 1 January 2013. The changes set out in paragraph 334, also related to the Tier 4 Points-Based System, shall take effect from 28 February 2013.

4.3 The other changes to the Immigration Rules will come into force on 13 December 2012. The changes in paragraphs 2, 10 to 17, 19, 21 to 25, 27 to 34, 36 to 43, 45 to 48, 50 to 56, 58 to 65, 67 to 74, 76 to 82, 84 to 86, 88 to 91, 93 to 97, 99 to 101, 103 to 105, 107 to 111, 113 to 114, 116, 121, 123 to 125, 127 to 128, 130 to 138, 147 to 149, 152, 154 to 155, 171, 172, 173, 174, 179, 180, 181, 182, 186, 187, 189, 190, 191, 192, 194 to 195, 197 to 198, 238 to 239, 248 to 249, 251 to 252, 254 to 258, 285 to 286, 288 to 301 and 303 to 304, 327, 328, 335 and 336, which relate to Tier 1 of the Points-Based System and/or the restriction against working as a doctor or dentist in training, permitted absences for settlement and dependants of Points Based System migrants, and some minor amendments to Tier 4 will apply to all applications decided on or after that date. In respect of the other changes, if an applicant has made an application for entry clearance or leave before 13 December 2012 and

the application has not been decided before that date, it will be decided in accordance with the Rules in force on 12 December 2012.

5. Territorial Extent and Application

5.1 This instrument applies to 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

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

Amendments to Tier 1 of the Points-Based System

7.2 Tier 1 of the Points-Based System caters for high value migrants, and currently consists of five categories: Tier 1 (Exceptional Talent), Tier 1 (General) – closed except for extension applications, Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Graduate Entrepreneur).

7.3 The Tier 1 (Exceptional Talent) category caters for world-leading talent in the fields of science, humanities, engineering and the arts. Changes were made to improve this route in HC 565 (laid before Parliament on 5 September 2012), including provision for some applicants in other categories to switch in-country. A correction is now being made to enable those applicants to be granted three years' leave to remain (as intended), rather than two years. Another correction is being made to ensure applicants are not automatically awarded points for English language ability unless they have proven their ability (or that they are exempt from the requirement) in an earlier application.

7.4 In April 2011 substantial changes were made to the Tier 1 (Entrepreneur) and Tier 1 (Investor) categories. The Home Office has been reviewing the effectiveness of these changes as they bedded in. As a result, a number of minor changes are being made to these categories.

7.5 The following changes are being made to the Tier 1 (Entrepreneur) category, which caters for those with financial backing who are coming to the UK to set up, take over, or otherwise be actively involved in the running of a business in the UK:

- Applicants normally require funding of £200,000, but this is reduced to £50,000 if the funding is from a specified source, which includes UK Government Departments. This provision is being expanded to include funding from Departments of Devolved Administrations.
- The English language requirement is being lowered from level C1 (advanced) to level B1 (intermediate), in line with other Points-Based System categories, in response to concerns that the high requirement was a possible deterrent to potentially successful entrepreneurs. This change is also being made to the Tier 1 (Graduate Entrepreneur) category for consistency (although it has no practical

consequence in this category, as applicants pass the English language requirement automatically if they meet the separate requirement to have passed a UK degree).

- Due to concerns about possible abuse, and the introduction in April 2012 of a more tightly controlled and bespoke Tier 1 (Graduate Entrepreneur) route, students will no longer be able to switch directly into this category, unless they have £50,000 funding from a specified source (registered venture capitalist firms, UK Government or Devolved Administration Departments, or listed seed funding competitions).
- A rule was introduced on 4 July 2011 stating that no points would be awarded for maintenance funds that are held in a financial institution with which the UK Border Agency is unable to make satisfactory verification checks. A list of financial institutions which do not satisfactorily verify financial statements is published on the UK Border Agency website. This rule is being expanded to include the business funds required for Tier 1 (Entrepreneur) applicants.
- A clarification is being made to confirm that points are not awarded for funds which have been promised to other individuals, except where they are applying under the specific provision for entrepreneurial teams.
- A clarification is being made to confirm how the requirement to be working in a NQF level 4 occupation is interpreted when applied to Tier 1 (Post-Study Work) migrants switching into Tier 1 (Entrepreneur).
- An existing provision (currently set out in published guidance) is being added to the Immigration Rules, confirming that letters from HM Revenue and Customs letters for Tier 1 (Entrepreneur) applicants can be dated within 8 months of entry into the route, not 6 months as the Rules otherwise imply.

7.6 The following changes are being made to the Tier 1 (Investor) category, which caters for high net worth individuals making a substantial financial investment in the UK:

- Initial applicants must provide evidence of the source of the required £1 million funds to invest. On 6 April 2011 a change was introduced allowing applicants to qualify for accelerated settlement in 2 or 3 years (rather than 5 years) if they invested larger sums of money. A change is now being made to require applicants to provide evidence of the source of the additional funds, in the same way.
- A change is being made to allow a Tier 1 (Investor) Migrant's leave to be curtailed if they fail to maintain the required level of investment for the duration of their leave.
- Amendments are being made to state explicitly that points will not be awarded for investments that applicants have taken loans out against, or investments that are held in offshore custody. These are not permitted, to ensure that the investments are under the applicant's control and are genuinely benefitting the UK. The previous Rules already prevented these activities. The change is being made purely in response to queries on these subjects from some representatives.
- An amendment is being made to leave conditions to prevent Tier 1 (Investor) migrants working as professional sportspeople, and so avoiding the Sports

Governing Body endorsement criteria in the dedicated sporting routes in Tier 2 and Tier 5. This mirrors the leave conditions in other Tier 1 categories;

- A technical clarification is being made to state more clearly how the accelerated settlement period for Tier 1 (Investor) migrants is to be calculated;
- As with Tier 1 (Entrepreneur), the rule relating to financial institutions which do not satisfactorily verify financial statements is being expanded to cover the funds Tier 1 (Investor) applicants are required to invest.

7.7 The Tier 1 (General) category for highly skilled workers was closed to new applicants from 6 April 2011, but extension and settlement applications continue to be made by migrants who were already in the route. A clarification is being made to confirm that employer pension contributions do not count towards the points awarded for previous earnings in this category.

Amendments to Tier 2 of the Points-Based System

7.8 Tier 2 of the Points-Based System caters for skilled workers with a job offer, and consists of four categories: Tier 2 (Intra-Company Transfer), Tier 2 (General), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). The Intra-Company Transfer category consists of four sub-categories: Short Term Staff, Skills Transfer, Graduate Trainee, and Long Term Staff.

7.9 Tier 2 (Intra-Company Transfer) Migrants can stay in the UK for a maximum of 5 years in the Long Term Staff sub-category. The category does not lead to settlement and a 12 month “cooling off period” applies before migrants can return. A change is being made to extend the maximum stay from 5 years to 9 years for very senior staff earning £150,000 a year or more. This change is being made in response to feedback from business. A 9-year maximum meets business needs while maintaining the temporary nature of this category, by preventing applicants qualifying for settlement on the basis of long residency.

7.10 A minor change to the operation of the “cooling off period” is also being made to introduce some flexibility in the way that the start of the cooling off period is determined when it is clear that the applicant has left the UK before the expiry of their leave. This will mean that the cooling off period can start from the earliest date that the applicant can demonstrate that they left the UK, rather than the date of expiry of Tier 2 leave. The onus will be on the applicant to demonstrate that they have left, and have remained outside, the UK earlier than the expiry of their leave.

7.11 On 14 June 2012 the minimum skills threshold for jobs that qualify under Tier 2 (General) and Tier 2 (Intra-Company Transfer) was raised from National Qualifications Framework (NQF) level 4 to level 6. A minor correction is being made to the transitional arrangements for this change. This correction means that applicants who entered these Tier 2 categories under the Rules in place between 6 April 2012 and 13 June 2012 will be subject to the NQF level 4 requirement when they apply to extend their stay, not the NQF level 6 requirement.

7.12 On 6 April 2011 a £40,000 salary threshold was introduced for Tier 2 (Intra-Company Transfer) Migrants coming to the UK for more than one year. A minor correction is being made to the transitional arrangements for this change. This correction ensures that Tier 2

(Intra-Company Transfer) Migrants who entered before the change can make more than one extension application without being subject to the new salary threshold.

7.13 Changes are being made to the Codes of Practice, setting out the appropriate salary rates and advertising media for barristers applying under Tier 2. Previously these details were missing from the Codes of Practice as no rates or specific media for barristers had been identified. Changes are also being made to the Resident Labour Market Test (RLMT) for pupillage positions for barristers, exempting these positions from the requirement to be advertised in Jobcentre Plus (or JobCentre Online in Northern Ireland) and extending the validity of the RLMT from six months to two years.

7.14 A temporary exemption from the requirement to advertise in Jobcentre Plus (or JobCentre Online in Northern Ireland) is being made for positions in the NHS advertised on NHS Jobs between 19 November 2012 and 6 April 2013. This is due to downtime in the automatic posting of vacancies from NHS Jobs to Jobcentre Plus while DWP systems are upgraded. A workaround could only be put in place for this period at significant cost to the public purse, so it has been agreed to temporarily waive the requirement.

7.15 Two existing provisions (currently set out in published guidance) relating to the Resident Labour Market Test are being included in the Immigration Rules. The first is that Tier 2 (General) Sponsors do not need to appoint a suitable settled worker when carrying out the Resident Labour Market Test for PhD-level occupations, if a migrant applicant is better qualified for the post. The second is that Tier 2 (General) Sponsors are exempt from the normal advertising requirements when carrying out the Resident Labour Market Test if the post is for a named researcher or is covered by the creative sector codes of practice in Table 5 of Appendix J.

7.16 A further correction is being made to the Codes of Practice to remove out-of-date references to the use of head-hunters for recruitment. The published guidance for Sponsors was amended to make clear that the use of head-hunters is permitted, but this does not obviate the requirement for vacancies to be advertised in order to satisfy the Resident Labour Market Test. This change was overlooked when the Codes of Practice were added to these Rules by Cm 8423 (laid before Parliament on 19 July 2012) and is now being corrected.

7.17 A correction is being made to the evidential requirements for graduates applying to switch into Tier 2 under post-study provisions. This is to reflect that degree certificates do not show all the same details as academic references and transcripts, but are equally acceptable as evidence.

7.18 As with Tier 1 (General), a clarification is being made to confirm that employer pension contributions do not count towards appropriate salary points for Tier 2 (General) and Tier 2 (Intra-Company Transfer). A drafting inconsistency is also being removed between the appropriate salary rules for these two Tier 2 categories.

7.19 An existing provision (currently set out in published guidance) is being included in the Immigration Rules, which states that Tier 2 dependants do not need to provide evidence of maintenance if the main applicant does not (for example, because they have made an extension application and the main applicant is currently working lawfully in the UK).

Amendments to Tier 4 of the Points-Based System

7.20 Tier 4 of the Points-Based System caters for international students who wish to study in the United Kingdom. It consists of two categories: Tier 4 (General) Student and Tier 4

(Child) Student. As with other parts of the Points Based System, Tier 4 was implemented in phases, with the introduction of the main policy changes on 31 March 2009.

7.21 A Statement of Intent, outlining the Government's plans for implementation of changes to Tier 4 was published on 31 March 2011 on the UK Border Agency website at: www.ukba.homeoffice.gov.uk/sitecontent/documents/news/sop4.pdf.

7.22 A further Statement of Intent, which provided more detail of the Government's plans for implementation of changes to Tier 4 from April 2012 was published on 13 February 2012 on the Home Office website at: <http://www.homeoffice.gov.uk/publications/immigration/changes-study-visa-soi>

7.23 Tier 4 (General) Students have conditions restricting their employment in the UK. The following changes are being made to relax these conditions:

- The conditions prevent Tier 4 (General) Students working as a doctor or dentist in training unless they have been granted leave to do a recognised NHS Foundation Programme. These changes allow students to start working as a doctor or dentist as soon as they have submitted an application in which they are sponsored to do a recognised NHS Foundation Programme, while they are waiting for that application to be decided. This will avoid potential delays for medical degree students in beginning the next stage of their training.
- The conditions also prevent Tier 4 (General) Students from working in self-employment. These changes allow students who have been endorsed by their institution for the Tier 1 (Graduate Entrepreneur) category to work in self-employment as they have submitted their Tier 1 (Graduate Entrepreneur) application and while they are waiting for it to be decided.

7.24 Other changes to Tier 4 include:

- A clarification regarding maintenance requirements that was previously listed in guidance and is now in the rules.
- Clarification on the post-graduate legal courses that are exempt from the time limit on study.
- An update to a course title as defined by the awarding body.
- An amendment to the provision for employment as a National Union of Students (NUS) elected official.
- Extension to the interim limit. A small number of educational institutions that have not achieved both a satisfactory educational oversight assessment from a specified body and Highly Trusted Sponsor status remain subject to an interim limit on the number of international students that can be recruited. The interim limit provision expires on 31 December 2012 and these changes extend the limit until 30 June 2013.
- Amendments to the provision enabling an applicant to use a loan letter to evidence the required level of maintenance, limiting this to loan schemes provided by a government, or a government sponsored student loan company or where the loan is part of an academic or educational loans scheme. Where an

applicant uses another type of loan then the funds will need to have been held for at least 28 days prior to application.

Amendments to Tier 5 of the Points-Based System

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

7.26 The Youth Mobility Scheme is for sponsored young people from participating countries and territories who wish to live and work temporarily in the UK. The annual allocations of places are being renewed for 2013. There is an increase in the allocations for Australia (from 32,500 to 35,000 places) and Canada (from 5,000 to 5,500 places) since they attracted a higher number of British youths under their reciprocal scheme in 2011, than in the previous year. South Korea has also received an increased allocation up to the minimum annual allocation of places (1,000) as their previous allocation was based on them joining part way through 2012. The other allocations are unchanged from 2012. Appendix 3 which lists the participating countries under the previous Working Holiday-maker scheme is being removed as this scheme was replaced by the Youth Mobility Scheme in 2008.

7.27 The International Agreement sub-category provides for workers who may be admitted under the UK's international commitments, but who are not otherwise covered by provisions in these Rules. Changes are being made to this category to make more specific provision for contractual service suppliers (who do not otherwise have a UK presence) seeking admission under the relevant commitments in certain international trade agreements to which the UK is a party.

7.28 The changes apply the following entry requirements to such workers:

- The worker must be employed by a business which is located on the territory of a country which is party to such an agreement and which has no commercial presence in the EU;
- The service which that business is supplying to the Tier 5 Sponsor is a service which falls within a sector on which the UK has taken commitments in such an agreement;
- The service is being supplied pursuant to a contract which has been openly tendered;
- The Tier 5 Sponsor will be the final user of the service (A business in the UK cannot sponsor the admission of workers under this category which it will then supply, as labour, to a third party);
- The applicant is a national of the country in which the sending business is located;
- The applicant has been employed by the sending business for at least one year prior to the date of the application;

- The applicant meets the specified skills requirements. Applicants will normally be required to possess a degree or equivalent; three years professional experience in the sector concerned); and relevant professional qualifications, where they are required for the exercise in the UK of the activity in question.

7.29 Applicants meeting these requirements will be admitted for a maximum period of up to six months in any twelve month period.

7.30 A technical change is being made to the Government Authorised Exchange sub-category, which caters for people coming to the UK through approved schemes that aim to share knowledge, experience and best practice. This change adds training by HM Armed Forces or by UK emergency services to the training programmes that may be up to two years in length (as opposed to one year for work experience schemes). A new scheme, operated by the University of Chichester, is also being added to the list of approved work experience schemes in this sub-category.

7.31 The requirements for entry clearance, leave to remain and indefinite leave to remain as a private servant in a diplomatic household in paragraphs 245ZO to 245ZS specify that the employer must be a named individual and that the private servant cannot change employer. It is not currently specified, as it should be, that the employer must be diplomat, or in the case of an employee of an international organisation enjoying certain immunities and privileges here, that employee, and not a member of their family living in the household. The changes correct that.

Amendments on Points-Based System Dependants

7.32 Statement of Changes HC565 included amendments relating to Points-Based System dependants. Those amendments removed the ability of a child to come to the UK with or to join parents other than where one is a Points-Based System migrant and the other has leave as that parent's partner. The amendments to paragraphs 319H and 319J restore the possibility of a child entering or being granted leave to remain or indefinite leave to remain where, for instance, both parents are Points-Based System migrants.

Amendments to Parts 5, 6, 6A and 7 of the Immigration Rules

7.33 Parts 5, 6, 6A and 7 of the Immigration Rules include provision for indefinite leave to remain for the following work-related routes of entry:

- work permit holder
- representative of an overseas newspaper, news agency or broadcasting organisation
- sole representative
- employee of overseas governments or the United Nations or other international organisations of which the UK is a member
- minister of religion, missionary or member of a religious order
- airport-based operational staff of overseas-owned airlines
- UK ancestry
- business person
- innovator
- writer, composer or artist
- retired person of independent means

- highly-skilled migrant programme
 - private servants in diplomatic households
 - domestic workers in private households
- and
- the following Points-Based System categories:
 - Tier 1 General
 - Tier 2 General
 - Tier 2 Sportsperson
 - Tier 2 Minister of Religion
 - Tier 2 Intra-company transfers
 - Tier 5 (International agreement) – private servants in diplomatic households granted under Rules in place before 6 April 2012 only.

The Rules are being amended to clarify the absences that are permitted from the UK during the continuous period of lawful residence required for indefinite leave to remain in all these categories. Up to a maximum of 180 days in any of the 12 calendar month periods preceding the date of the application for indefinite leave to remain may be spent outside the UK, provided the absence is due to an employment, including annual leave, or business related reason or there are serious or compelling compassionate reasons for the absence.

Amendments to the Family and Private Life Rules

Transitional provisions

7.34 The Rules are being amended to align the bereaved partner and domestic violence provisions of Part 8 with the policy for partners and allow those who cannot qualify for indefinite leave to remain on criminality grounds to be granted further leave to remain.

7.35 The Rules are being amended to allow applicants last granted limited leave to enter the UK under Part 8 to benefit from the same transitional provisions as those last granted limited leave to remain under Part 8.

7.36 The Rules are being amended to allow applicants who have a valid claim under Article 8 of the European Convention on Human Rights (the right to respect for private and family life), but who have not submitted an application under Appendix FM of the Rules (family life) or paragraphs 276ADE to 276DH (private life), to be granted leave under the 10 year partner, parent and private life routes.

Children

7.37 The following changes are being made to the provisions relating to children:

- Provision is being made for a parent who was granted leave on the basis of a child in the UK to be allowed to remain in the UK once the child has turned 18, provided the child has not formed an independent family unit and is not living an independent life.
- Children may be granted leave in line with their parent where the parent has a route to settlement as the parent of a child who is not settled but has been living in the UK for at least 7 years and it would not be reasonable to expect the child to leave the UK.

- Existing child dependants may be granted leave in line with a parent granted leave on the 5 or 10 year parent route on the basis of the parent's relationship with another child.
- The settlement (indefinite leave to remain) requirements for children are being amended in line with the partner provisions in Part 8 of the Rules, to allow a child who has overstayed to qualify for settlement.
- A migrant parent accompanying or joining a partner here under Appendix FM who wants to be accompanied or joined by a child of a previous partner will be required to show that they have sole responsibility for that child or that there are serious and compelling family or other considerations which make exclusion of the child undesirable.
- Provision is being made in Appendix FM for a migrant parent and child to be able to apply for leave to remain in the UK on the basis of the migrant parent's shared parental responsibility for the child's upbringing, in addition to circumstances in which the migrant parent has sole parental responsibility.
- Appendix FM is being amended to clarify that a child applying for settlement (indefinite leave to remain) should be considered under paragraph 298 of the Rules.

Parents and partners

7.38 A reference to temporary release is being included in the immigration status requirement under Appendix FM to ensure equal treatment with those on temporary admission. This will allow asylum seekers or immigration offenders on temporary release to qualify under the 10 year partner or parent route if paragraph EX.1. of Appendix FM applies.

7.39 The changes will allow those granted limited leave for 6 months or less pending the outcome of family court or divorce proceedings to make an application under Appendix FM.

7.40 The position on recourse to public funds in the 10 year partner and parent routes under Appendix FM will be clarified.

7.41 The parent route is not available to a migrant who is the partner of a British citizen or settled person. An amendment to Appendix FM will clarify that those in an unmarried (or non-civil partnership) relationship of less than 2 years' duration are also excluded.

7.42 A number of minor clarifications will be made to the partner and parent provisions of Appendix FM, together with a minor clarification in the application of Appendix FM to asylum claims and clarification that Appendix FM does not apply to applications for family reunion from a pre-flight partner or child of a refugee or person with humanitarian protection.

Evidential requirements

7.43 Minor amendments will be made to the requirements under Appendix FM-SE for specified financial evidence in support of family migration applications under Appendix FM, in line with the Rules for the Points-Based System. This will provide more flexibility than previously allowed.

7.44 Amendments will also be made to the evidential flexibility policy under Appendix FM-SE:

- To allow applications to be deferred pending submission of missing evidence or the correct version of it within a reasonable deadline.
- To enable applications to be granted despite minor evidential problems where the caseworker is otherwise satisfied that the applicant meets the requirement to which the document relates.

Private life

7.45 An amendment to the private life rules will narrow the circumstances in which a child under the age of 18 can apply for leave to remain on the grounds of private life to those circumstances in which it would not be reasonable to expect the child to leave the UK.

Changes to the Criminality Requirements

7.46 The general grounds for refusal (Part 9 of the immigration rules) provide a cross-cutting range of factors – some discretionary, some mandatory – which, if applicable, result in a refusal of an application even if the more specific requirements of a particular immigration route are met.

7.47 The changes to the criminality requirements respond to the commencement of section 56A of the UK Borders Act 2007 (inserted by section 140 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012), which came into force on 1st October 2012. This will put beyond doubt whether or not the concept of a conviction becoming ‘spent’ within the meaning of the Rehabilitation of Offenders Act 1974 is applicable in immigration and nationality decisions.

7.48 Instead, the requirements within the general grounds for refusal will determine whether or not that application will be successful.

7.49 This approach improves the fairness, transparency and consistency in the UK Border Agency’s decision-making process. Applicants will know exactly how any criminal convictions affect their application.

7.50 One of the consequential amendments is the removal of the requirement to have no unspent convictions in order to make a successful application for indefinite leave, which is being replaced by the wider criminality framework outlined in Part 9 and Appendix FM.

Recalculating Deportation Orders

7.51 Calculating the time a Deportation Order normally remains in force based on whether or not the conviction is capable of becoming spent is no longer considered appropriate in light of the immigration and nationality exemption to section 4 of the Rehabilitation of Offenders Act 1974.

Conditional Cautioning

7.52 The change to paragraph 320(7B)(vii) reflects section 134 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012. This added a new condition to the conditional cautions scheme. In appropriate cases, eligible foreign offenders will be diverted from prosecution if they admit guilt, agree to leave the United Kingdom and not return for a specified period. If they do not comply, the original prosecution will be reinstated. This change is a safeguard against an offender returning to the UK lawfully but in breach of the conditional caution.

Curtailment Provisions

7.53 We are introducing a discretionary power to the Secretary of State to curtail a person's leave to enter or remain where they commit an offence within the first six months of their arrival in the UK. This will supplement the existing power to curtail on the grounds of a person's character, conduct and associations and will enable the Secretary of State to 'nip offending in the bud' by acting at the earliest opportunity rather than waiting for a person's offending to escalate. The aim is also to enable the Secretary of State with a power to act where it is clear from the person's actions that they do not intend to remain in the UK in line with the reason their visa was issued.

Armed Forces

7.54 We are introducing a new limited leave to remain 'route' for Gurkhas and Foreign & Commonwealth ex-Armed Forces members who fail to obtain indefinite leave because of minor criminality. Those persons who are liable to deportation because of their offending will continue to remain so.

Cross-cutting amendments

7.55 A minor amendment is being made to the Points Based System policy on requesting specified documents that are copies or in the wrong format, to improve flexibility and allow applications to be exceptionally granted in cases where the UK Border Agency has no concerns.

7.56 Migrants in Tier 2 and Tier 5 (Temporary Worker) may take up supplementary employment of up to 20 hours a week in addition to the employment they are being sponsored for, providing it is in the same occupation and at the same professional level. A change is being made so that these migrants can also take up supplementary employment in a shortage occupation, even if this is a different occupation to the one they are being sponsored to work in. This will provide migrants with more flexibility and help to ease shortages in these occupations.

7.57 Migrants in various immigration categories have a condition preventing them from working as a doctor or dentist in training, unless they have a primary degree in medicine or dentistry from a UK institution. This restriction assists with NHS workforce planning. These changes clarify that a "primary degree" means an undergraduate degree.

7.58 Applicants are exempt from the above restriction against working as a doctor or dentist in training if they can provide a letter from the Postgraduate Medical Education and Training Board confirming that they were previously working lawfully in the UK in that capacity. This provision is being updated to reflect the fact that the function of the

Postgraduate Medical Education and Training Board has now passed to the General Medical Council (in the case of doctors) and the Joint Committee for Postgraduate Training in Dentistry (in the case of dentists)

7.59 Sportspeople applying in Tier 2 and Tier 5 must be endorsed by an approved Sports Governing Body. Netball Northern Ireland is being added to the list of approved bodies.

7.60 Cambridge IGCSE courses are being added to the list of English language tests that have been assessed as meeting the UK Border Agency's requirements for categories that require applicants to prove their English language ability.

7.61 New lists, covering financial institutions in Bangladesh, are being added to the lists of financial institutions whose documents can and cannot be verified when provided in support of applications.

7.62 Paragraphs A34 to 34G of the Immigration Rules make provision for the procedure for making a valid application in relation to immigration. Applications can be made by post or in person by making an appointment at a Public Enquiry Office. From 13 February 2012, it also became possible for a person in the United Kingdom to make an online application for leave to remain as a Tier 2 or Tier 5 Migrant or the family member of a Tier 2 or 5 Migrant. It remains possible for an application which can be made online to be made by post, although appointments with the Public enquiry office must be made via the online process.

7.63 This technical change amends paragraph A34 to remove the requirement that online applications can only be made as a Tier 2 or Tier 5 Migrant or the family member of a Tier 2 or 5 Migrant, in preparation for the extension of online applications to other routes. The amendment provides for online applications to be made under other provisions of the Immigration Rules, where this service is in future offered by the UK Border Agency.

7.64 A number of corrections are being made to paragraph numbering and other minor drafting errors.

8. Consultation

8.1 The changes in this Statement have not been subject to consultations as this would be disproportionate to the nature of the changes.

9. Guidance

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

10. Impact

10.1 There is limited or no impact on business, charities, the public sector or voluntary bodies such that an impact assessment is unnecessary.

11. Regulating small business

11.1 The changes relating to Tier 2, Tier 4 and Tier 5 will apply to small businesses that are licensed as Sponsors in these tiers. The changes are minor, and are not expected to have any negative impact on small businesses.

12. Monitoring and review

12.1 The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of the changes in this Statement and lay a report before Parliament within 5 years after these changes come into force and within every five years after that, to the extent that the rules contained in this Statement of Changes remain in force at the review date. Following each review the Secretary of State will decide whether the changes should remain as they are, or be revoked or be amended. A further Statement of Changes would be needed to revoke the changes or to amend them.

12.2 All the changes made by this Statement will be monitored on an on-going basis as part of the review of progress towards meeting the Government's commitment to reduce annual net migration.

13. Contact

13.1 Queries should be directed to the UK Border Agency's immigration enquiry bureau on 0870 606 7766, or as per the Contact page on the UK Border Agency website at www.ukba.homeoffice.gov.uk/contact/.

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

13.3 A copy of this Statement of Changes can be found on the UK Border Agency website at www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/statementsofchanges/