

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 6 February 2008 under section 3(2) of
The Immigration Act 1971*

*Ordered by The House of Commons to be printed
6 February 2008*

(This document is accompanied by an Explanatory Memorandum)

© Crown Copyright 2008

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to The Licensing Division, HMSO, St Clements House, 2-16 Colegate, Norwich, NR3 1BQ. Fax: 01603 723000 or e-mail: licensing@cabinet-office.x.gsi.gov.uk

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 Act 1971 for regulating entry into and the stay of persons in the United Kingdom and contained in the Statement laid before Parliament on 23 May 1994 (HC 395), as amended. The amending statements were laid before, or presented to, Parliament on 20 September 1994 (Cmnd 2663), 26 October 1995 (HC 797), 4 January 1996 (Cmnd 3073), 7 March 1996 (HC 274), 2 April 1996 (HC329), 30 August 1996 (Cmnd 3365), 31 October 1996 (HC 31), 27 February 1997 (HC 338), 29 May 1997 (Cmnd 3669), 5 June 1997 (HC 26), 30 July 1997 (HC 161), 11 May 1998 (Cmnd 3953), 8 October 1998 (Cmnd 4065), 18 November 1999 (HC 22), 28 July 2000 (HC 704), 20 September 2000 (Cmnd 4851), 27 August 2001 (Cmnd 5253), 16 April 2002 (HC 735), 27 August 2002 (Cmnd 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 (Cmnd 5829), 24 August 2003 (Cmnd 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 (Cmnd 6297), 24 September 2004 (Cmnd 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), and 19 November 2007 (HC 82).

The changes in paragraphs 1 to 41 shall take effect on 29 February 2008. The changes in paragraphs 42 to 57 shall take effect on 1 April 2008.

1. In paragraph 6, after the definition of “immigration employment document” insert:

““Employment as a Doctor in Training” means employment in a medical post or programme offered by the National Health Service which has been approved by the Postgraduate Medical Education and Training Board as a training programme or post.

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

“Tier 1 (General) Migrant” means a migrant who is granted leave under paragraphs 245A to 245C of these Rules.

Under Part 6A of these Rules, “Highly Skilled Migrant” means a migrant who is granted leave under paragraphs 135A to 135G of these Rules.

Under Part 6A of these Rules, “Highly Skilled Migrant Programme Approval Letter” means a letter issued by the Home Office confirming that the applicant meets the criteria specified by the Secretary of State for entry to or stay in the UK under the Highly Skilled Migrant Programme.

Under Part 6A of these Rules, “Innovator” means a migrant who is granted leave under paragraphs 210A to 210F of these Rules.

Under Part 6A of these Rules, “Lawfully” means with valid leave.

Under Part 6A of these Rules, “Participant in the Fresh Talent Working in Scotland Scheme” means a migrant who is granted leave under paragraphs 143A to 143F of these Rules.

Under Part 6A of these Rules, “Participant in the International Graduates Scheme” means a migrant who is granted leave under paragraphs 135O to 135T of these Rules.

Under Part 6A of these Rules, “Postgraduate Doctor or Dentist” means a migrant who is granted leave under paragraphs 70 to 75 of these Rules.

Under Part 6A of these Rules, “Self-Employed” means an applicant is registered as self-employed with HM Revenue & Customs, or is employed by a company of which the applicant is a controlling shareholder.

Under Part 6A of these Rules, “Student” means a migrant who is granted leave under paragraphs 57 to 62 of these Rules.

Under Part 6A of these Rules, “Student Nurse” means a migrant who is granted leave under paragraphs 63 to 69 of these Rules.

Under Part 6A of these Rules, “Student Re-Sitting an Examination” means a migrant who is granted leave under paragraphs 69A to 69F of these Rules.

Under Part 6A of these Rules, “Student Writing-Up a Thesis” means a migrant who is granted leave under paragraphs 69G to 69L of these Rules.

Under Part 6A of these Rules, “Work Permit Holder” means a migrant who is granted leave under paragraphs 128 to 133 of these Rules.”

2. Delete paragraphs 32 and 33.

3. Substitute paragraph 34 with:

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

34. An application form is specified when:

- (i) it is posted on the website of the Border and Immigration Agency of the Home Office,
- (ii) it is marked on the form that it is a specified form for the purpose of the immigration rules,
- (iii) it comes into force on the date specified on the form and/or in any accompanying announcement.

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

- (i) the application or claim must be made using the specified form,
- (ii) any specified fee in connection with the application or claim must be paid in accordance with the method specified in the application form, separate payment form and/or related guidance notes, as applicable,
- (iii) any section of the form which is designated as mandatory in the application form and/or related guidance notes must be completed as specified,
- (iv) if the application form and/or related guidance notes require the applicant to provide biographical or biometric information, such information must be provided as specified,
- (v) an appointment for the purposes stated in subparagraph (iv) must be made and must take place by the dates specified in any subsequent notification by the Secretary of State following receipt of the application, or as agreed by the Secretary of State,
- (vi) where the application or claim is made by post or courier, or submitted in person:
 - (a) the application or claim must be accompanied by the photographs and documents specified as mandatory in the application form and/or related guidance notes, and
 - (b) the form must be signed by the applicant, and where applicable, the applicant’s spouse, civil partner, same-sex partner or unmarried partner, save that where the applicant is under the age of eighteen, the form may be signed by the parent or legal guardian of the applicant on his behalf,
- (vii) where the application or claim is made online:
 - (a) the photographs and documents specified as mandatory must be submitted in the manner directed in the application form and/or related online guidance notes and by such date as is specified in the acknowledgement of the online application, and
 - (b) the confirmation box (which states that the information contained in the application form is true and complete) must be completed by the applicant or, if the form is completed by an immigration adviser on the applicant’s behalf, by the immigration adviser on specific instructions from the applicant that the information given is true and complete, and

(viii) the application or claim must be delivered in accordance with paragraph 34B.

34B. Where an application form is specified, it must be sent by prepaid post to the Border and Immigration Agency of the Home Office, or submitted in person at a public enquiry office of the Border and Immigration Agency of the Home Office, save for the following exceptions:

- (i) an application may not be submitted at a public enquiry office of the Border and Immigration Agency of the Home Office if it is an application for:
 - (a) limited or indefinite leave to remain as a business person, sole representative, retired person of independent means, investor, innovator or as a Tier 1 (General) Migrant,

- (b) indefinite leave to remain as a victim of domestic violence,
 - (c) a certificate of approval for a marriage or civil partnership, or
 - (d) a Tier 2 sponsorship licence.
- (ii) an application may be sent by courier to the Border and Immigration Agency of the Home Office if it is an application for:
- (a) limited or indefinite leave to remain as a business person, sole representative, retired person of independent means, investor, innovator, or as a Tier 1 (General) Migrant, or
 - (b) limited leave to remain for work permit employment, as a seasonal agricultural worker, for the purpose of employment under the Sectors-Based Scheme, or for Home Office approved training or work experience.

34C. Where an application or claim in connection with immigration for which an application form is specified does not comply with the requirements in paragraph 34A, such application or claim will be invalid and will not be considered.

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

- (i) the application form must expressly permit the applications or claims of dependants to be included, and
- (ii) such dependants must be the spouse, civil partner, unmarried or same-sex partner and/or children under the age of 18 of the main applicant.

Variation of Applications or Claims for Leave to Remain

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

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

Determination of the date of an application or claim (or variation of an application or claim) in connection with immigration

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

- (i) where the application form is sent by post, the date of posting,
- (ii) where the application form is submitted in person, the date on which it is accepted by a public enquiry office of the Border and Immigration Agency of the Home Office,
- (iii) where the application form is sent by courier, the date on which it is delivered to the Border and Immigration Agency of the Home Office, or
- (iv) where the application form is submitted online, the date on which it is so submitted.

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

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

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

34J. Where a person whose application or claim for leave to remain is being considered requests the return of his passport for the purpose of travel outside the common travel area, the application for leave shall, provided it has not already been determined, be treated as withdrawn as soon as the passport is returned in response to that request.”

4. For paragraph 70(vi)(c), substitute:
“(c) a Tier 1 (General) Migrant; or”
5. At the end of paragraph 75A(iv)(c), for “; or” substitute “.” and delete paragraph 75A(iv)(d).
6. At the end of paragraph 75D(iv)(c), for “; or” substitute “; and” and delete paragraph 75D(iv)(d).
7. At the end of paragraph 75G(iv)(b), for “; or” substitute “; and” and delete paragraph 75G(iv)(c).
8. At the end of paragraph 75K(iv)(b), for “; or” substitute “; and” and delete paragraph 75K(iv)(c).
9. After paragraph 131H, insert:
“**131I.** The requirements for an extension of stay to take employment for a Tier 1 (General) Migrant are that the applicant:
 - (i) entered the UK or was given leave to remain as a Tier 1 (General) Migrant, and
 - (ii) holds a valid work permit; and
 - (iii) meets each of the requirements of paragraph 128(ii) to (vi).”
10. In paragraphs 132 and 133, for “or 131H” substitute “, 131H or 131I”.
11. For paragraph 134, substitute:
“**Indefinite leave to remain as a work permit holder**
134. Indefinite leave to remain may be granted on application to a person provided:
 - (i) he has spent a continuous period of 5 years lawfully in the UK, of which the most recent period must have been spent with leave as a work permit holder (under paragraphs 128 to 133 of these rules), and the remainder must be made up of leave as a work permit holder or leave as a highly skilled migrant (under paragraphs 135A to 135F of these rules);
 - (ii) he has met the requirements of paragraph 128(i) to (v) throughout his leave as a work permit holder, and has met the requirements of paragraph 135G(ii) throughout any leave as a highly skilled migrant;
 - (iii) he is still required for the employment in question, as certified by his employer; and
 - (iv) he 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.”
12. In paragraph 135B, after “2 years,” insert:
“subject to a condition prohibiting Employment as a Doctor in Training,”
13. Delete paragraphs 135D to 135F.
14. For paragraph 135HA, substitute:
“**135HA.** An application under paragraphs 135A-135C or 135G-135H of these Rules is to be refused, even if the applicant meets all the requirements of those paragraphs, if the Immigration Officer or Secretary of State has cause to doubt the genuineness of any document submitted by the applicant and, having taken reasonable steps to verify the document, has been unable to verify that it is genuine.”
15. In paragraph 135O(vi), for “paragraphs 128-135H or 200-210H of these Rules”, substitute “paragraphs 128-135, 200-210H or 245A-245F of these Rules”.
16. For paragraph 143A(vi)(b), substitute:
“(b) a Tier 1 (General) Migrant; or”.
17. At the end of paragraph 195, add:
“If the person is seeking leave to enter as the spouse or civil partner of a Highly Skilled Migrant, leave which is granted will be subject to a condition prohibiting Employment as a Doctor in Training.”

18. At the end of paragraph 196B, add:

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

19. After paragraph 206H, insert:

“**206I.** The requirements for an extension of stay as a person intending to establish himself in business in the United Kingdom for a Tier 1 (General) Migrant are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a Tier 1 (General) Migrant; and
- (ii) meets each of the requirements of paragraph 201(i)-(x).”

20. In paragraphs 207 and 208, replace “or 206H” with “, 206H or 206I”.

21. After paragraph 210DH, insert:

“**210DI.** The requirements to be met for an extension of stay as an innovator, for a Tier 1 (General) Migrant are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a Tier 1 (General) Migrant; and
- (ii) meets the requirements of paragraph 210A(i)-(iv).”

22. In paragraphs 210E and 210F, replace “or 210DH” with “, 210DH or 210DI”.

23. After paragraph 227D, insert:

“**227E.** The requirements to be met for an extension of stay as an investor, for a person in the United Kingdom as a Tier 1 (General) Migrant are that the applicant:

- (i) entered the United Kingdom or was granted leave to remain as a Tier 1 (General) Migrant; and
- (ii) meets the requirements of paragraph 224(i)-(iv).”

24. In paragraphs 228 and 229, replace “or 227D” with “, 227D or 227E”.

25. After Part 6, insert:

“PART 6A
POINTS-BASED SYSTEM
TIER 1 (GENERAL) MIGRANTS

245A. Purpose

This route is for highly skilled migrants who wish to work, or become self-employed in the UK.

245B. Requirements for leave to remain

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have a minimum of 75 points under Appendix A.
- (c) The applicant must have 10 points under Appendix B.
- (d) The applicant must have 10 points under Appendix C.
- (e) The applicant must have, or have last been granted, entry clearance, leave to enter or remain:
 - (i) as a Highly Skilled Migrant,
 - (ii) as a Tier 1 (General) Migrant,
 - (iii) as an Innovator,
 - (iv) as a Participant in the Fresh Talent: Working in Scotland Scheme,

- (v) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
 - (vi) as a Postgraduate Doctor or Dentist,
 - (vii) as a Student,
 - (viii) as a Student Nurse,
 - (ix) as a Student Re-Sitting an Examination,
 - (x) as a Student Writing-Up a Thesis, or
 - (xi) as a Work Permit Holder.
- (f) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist and:
- (i) is currently being sponsored by a government or international scholarship agency, or
 - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,
- must provide the written consent of the sponsoring Government or agency to the application.

245C. 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 (General) Migrant,
 - (ii) for a period of 3 years, to any other applicant.
- (b) Leave to remain under this route will be subject to the following conditions:
 - (i) no recourse to public funds,
 - (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
 - (iii) no Employment as a Doctor in Training, unless the applicant:
 - (1) has, or has last been granted, entry clearance, leave to enter or remain as a Highly Skilled Migrant or as a Postgraduate Doctor or Dentist,
 - (2) has, or has last been granted, entry clearance or leave to remain as a Tier 1 (General) Migrant and that grant was not subject to a condition prohibiting Employment as a Doctor in Training, or
 - (3) has submitted with this application a valid Highly Skilled Migrant Programme Approval Letter, where the application for that approval letter was made on or before 6 February 2008.

245D. Requirements for indefinite leave to remain

To qualify for indefinite leave to remain, a Tier 1 (General) Migrant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused, unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules.

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have spent a continuous period of 5 years Lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (General) Migrant, and the rest may be made up of leave:
 - (i) as a Tier 1 (General) Migrant,
 - (ii) as a Highly Skilled Migrant,
 - (iii) as a Work Permit Holder,
 - (iv) as an Innovator.
- (c) The applicant must be economically active in the UK, in employment or self-employment or both.

- (d) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33F of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.

245E. Transitional arrangements

This paragraph makes special provision for applicants affected by these rules who on 29 February 2008 are in the UK and are in the process of applying to become a Highly Skilled Migrant. It will also be relevant to applicants who have, or have last been granted, leave to remain as a Highly Skilled Migrant, who are Self-Employed, and who fall within subparagraph (c) below.

- (a) If an applicant has made an application for limited leave to remain as a Highly Skilled Migrant before 29 February 2008, and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 28 February 2008 as set out in Appendix D.
- (b) If an applicant has made an application in the UK for limited leave to remain on or after 29 February 2008, and has submitted with that application a valid Highly Skilled Migrant Programme Approval Letter, the applicant will be automatically awarded 75 points under Appendix A and 10 points under Appendix B.
- (c) A Self-Employed applicant who has, or was last granted, leave to enter or remain as a Highly Skilled Migrant which was granted in accordance with the immigration rules in force on or before 8 November 2006 will be granted leave to remain as a Tier 1 (General) Migrant if the requirements below are met. If these requirements are not met, the applicant will not qualify for leave under this transitional provision.

Requirements:

- (i) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (ii) The applicant must have, or have last been granted, entry clearance, leave to enter or remain as a Highly Skilled Migrant which was granted in accordance with these Rules in force on or before 8 November 2006.
- (iii) The applicant must have become Self-Employed in the UK whilst having leave as a Highly Skilled Migrant, and must provide the specified documents.
- (iv) The applicant must have been Self-Employed for at least 4 months prior to the date the current application for leave to remain was made, and the specified documents must be provided.
- (v) The applicant must have ongoing business commitments for at least 6 months after the date the current application for leave to remain was made, and the specified documents must be provided.
- (vi) The applicant must have 10 points under Appendix B.
- (vii) The applicant must have 10 points under Appendix C.

If the requirements above are met, leave to remain as a Tier 1 (General) Migrant will be granted for a period of 3 years, subject to the conditions in paragraph 245C(b) above.

245F. Documentary evidence

- (a) Where Part 6A or Appendices A to C of these Rules state that specified documents must be provided, that means documents specified by the Secretary of State in the Tier 1 (General) Policy Guidance. If the specified documents are not provided, the applicant will not meet the requirement for which the specified documents are required as evidence.
- (b) If the Secretary of State has reasonable cause to doubt the genuineness of any document submitted by an applicant which is, or which purports to be, a specified document under Part 6A or Appendices A to C of these Rules and, having taken reasonable steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of this application.”

26. After paragraph 266D, insert:

“**266E.** The requirements for an extension of stay as a retired person of independent means for a person in the UK as a Tier 1 (General) Migrant are that the applicant:

- (i) entered the UK or was granted leave to remain as a Tier 1 (General) Migrant; and
- (ii) meets the requirements of paragraphs 263(i) to (v).”

27. In paragraphs 267 and 268, replace “or 266D” with “, 266D or 266E”.

28. At the end of paragraph 287(a)(i)(c), delete “and” and insert:

“or

(d) the applicant was admitted to the UK or given an extension of stay as the spouse or civil partner of a Tier 1 (General) Migrant, and then obtained an extension of stay under paragraphs 281 to 286 of these Rules and has completed a period of 2 years as the spouse or civil partner of the person who is now present and settled here; or

(e) the applicant was admitted to the UK or given an extension of stay as the unmarried or same-sex partner of a Tier 1 (General) Migrant and during that period married or formed a civil partnership with the person whom he or she was admitted or granted an extension of stay to join and has completed a period of 2 years as the unmarried or same-sex partner and then the spouse or civil partner of the person who is now present and settled in the UK; and”

29. In paragraph 295G, renumber subparagraph “(i)” as “(i)(a)”.

30. At the end of paragraph 295G(i)(a), delete “and” and insert:

“or

(b) the applicant was admitted to the UK or given an extension of stay as the unmarried or same sex partner of a Tier 1 (General) Migrant, and then obtained an extension of stay under paragraphs 295AA to 295F of these Rules and has completed a period of 2 years as the unmarried or same sex partner of the person who is now present and settled here; and”

31. At the end of paragraph 295K, add:

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

32. After paragraph 319, insert:

“Family Members of Tier 1 (General) Migrants

Partners of Tier 1 (General) Migrants

319A. Purpose

This route is for the spouse, civil partner, unmarried or same-sex partner of a Tier 1 (General) Migrant (Partner of a Tier 1 (General) Migrant). Paragraphs 277 to 280 of these Rules apply to spouses of Tier 1 (General) Migrants; paragraph 277 of these Rules applies to civil partners of Tier 1 (General) Migrants; and paragraph 295AA of these Rules applies to unmarried and same-sex partners of Tier 1 (General) Migrants.

319B. Entry to the UK

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

319C. Requirements for entry clearance or leave to remain

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

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and if applying for leave to remain, must not be an illegal entrant.
- (b) The applicant must be the spouse or civil partner, unmarried or same-sex partner of a person who:
 - (i) has valid leave to enter or remain as a Tier 1 (General) Migrant, or
 - (ii) is, at the same time, being granted entry clearance or leave to remain as a Tier 1 (General) Migrant.

- (c) An applicant who is the unmarried or same-sex partner of a Tier 1 (General) Migrant must also meet the following requirements:
 - (i) any previous marriage or similar relationship by the applicant or the Tier 1 (General) Migrant with another person must have permanently broken down,
 - (ii) the applicant and the Tier 1 (General) Migrant must not be so closely related that they would be prohibited from marrying each other in the UK, and
 - (iii) the applicant and the Tier 1 (General) Migrant must have been living together in a relationship similar to marriage or civil partnership for a period of at least 2 years.
- (d) The marriage or civil partnership, or relationship similar to marriage or civil partnership, must be subsisting at the time the application is made.
- (e) The applicant and the Tier 1 (General) Migrant must intend to live with the other as their spouse or civil partner, unmarried or same-sex partner throughout the applicant's stay in the UK.
- (f) The applicant must not intend to stay in the UK beyond any period of leave granted to the Tier 1 (General) Migrant.
- (g) There must be a sufficient level of funds available to the applicant, as set out in Appendix E.
- (h) An applicant who is applying for leave to remain, must have, or have last been granted, leave:
 - (i) as the Partner of a Tier 1 (General) Migrant, or
 - (ii) as the spouse or civil partner, unmarried or same-sex partner of a person with leave under another category of these Rules who has since been granted, or is, at the same time, being granted leave to remain as a Tier 1 (General) Migrant.

319D. Period and conditions of grant

- (a) Entry clearance and leave to remain will be granted for a period which expires on the same day as the leave granted to the Tier 1 (General) Migrant.
- (b) Entry clearance and leave to remain under this route will be subject to the following conditions:
 - (i) no recourse to public funds,
 - (ii) registration with the police, if this is required under paragraph 326 of these Rules, and
 - (iii) no Employment as a Doctor in Training, unless the applicant is in the UK, and:
 - (1) has, or has last been granted, entry clearance, leave to enter or remain as the spouse, civil partner, unmarried, or same-sex partner of a migrant granted leave under Parts 3, 5 or 6 of these Rules, or
 - (2) has, or has last been granted, leave to remain as the Partner of a Tier 1 (General) Migrant and that grant was not subject to a condition prohibiting Employment as a Doctor in Training.

319E. Requirements for indefinite leave to remain

To qualify for indefinite leave to remain as the Partner of a Tier 1 (General) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules.

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must be the spouse or civil partner, unmarried or same-sex partner of a person who is, at the same time, being granted indefinite leave to remain as a Tier 1 (General) Migrant.
- (c) The applicant must have, or have last been granted, leave as the Partner of the Tier 1 (General) Migrant who is being granted indefinite leave to remain.

- (d) The applicant and the Tier 1 (General) Migrant must have been living together in the UK in marriage or civil partnership, or in a relationship similar to marriage or civil partnership, for a period of at least 2 years.
- (e) The marriage or civil partnership, or relationship similar to marriage or civil partnership, must be subsisting at the time the application is made.
- (f) The applicant and the Tier 1 (General) Migrant must intend to live permanently with the other as their spouse or civil partner, unmarried or same-sex partner.
- (g) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33F of these Rules, unless the applicant is aged 65 or over at the time this application is made.

Children of Tier 1 (General) Migrants

319F. Purpose

This route is for the children of Tier 1 (General) Migrants who are under the age of 18 when they apply to enter under this route. Paragraph 296 of these Rules applies to children of Tier 1 (General) Migrants.

319G. Entry to the UK

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

319H. Requirements for entry clearance or leave to remain

To qualify for entry clearance or leave to remain under this route, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance or leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and if applying for leave to remain, must not be an illegal entrant.
- (b) The applicant must be the child of a parent who:
 - (i) has valid leave to enter or remain as a Tier 1 (General) Migrant, or
 - (ii) is, at the same time, being granted entry clearance or leave to remain as a Tier 1 (General) Migrant.
- (c) The applicant must be under the age of 18 on the date the application is made, or if over 18 and applying for leave to remain, must have, or have last been granted, leave as the Child of a Tier 1 (General) Migrant.
- (d) The applicant must not be married or in a civil partnership, must not have formed an independent family unit, and must not be leading an independent life.
- (e) The applicant must not intend to stay in the UK beyond any period of leave granted to the Tier 1 (General) Migrant parent.
- (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, unless:
 - (i) The Tier 1 (General) Migrant is the applicant's sole surviving parent, or
 - (ii) The Tier 1 (General) 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.
- (g) There must be a sufficient level of funds available to the applicant, as set out in Appendix E.
- (h) An applicant who is applying for leave to remain must have, or have last been granted leave:
 - (i) as the Child of a Tier 1 (General) Migrant, or
 - (ii) as the child of a parent who had leave under another category of these Rules and who has since been granted, or is, at the same time, being granted leave to remain as a Tier 1 (General) Migrant.

319I. Period and conditions of grant

- (a) Entry clearance and leave to remain will be granted for a period which expires on the same day as the leave granted to the Tier 1 (General) Migrant parent.
- (b) Entry clearance and leave to remain under this route will be subject to the following conditions:
 - (i) no recourse to public funds, and
 - (ii) registration with the police, if this is required under paragraph 326 of these Rules.

319J. Requirements for indefinite leave to remain

To qualify for indefinite leave to remain under this route, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused, unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules.

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must be the child of a parent who is, at the same time, being granted indefinite leave to remain as a Tier 1 (General) Migrant.
- (c) The applicant must have, or have last been granted, leave as the Child of the Tier 1 (General) Migrant who is being granted indefinite leave to remain.
- (d) The applicant must not be married or in a civil partnership, must not have formed an independent family unit, and must not be leading an independent life.
- (e) Both of an applicant's parents must either be Lawfully present in the UK, or being granted entry clearance, limited leave to remain, or indefinite leave to remain at the same time as the applicant, unless:
 - (i) The Tier 1 (General) Migrant is the applicant's sole surviving parent, or
 - (ii) The Tier 1 (General) 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 for the applicant's care.
- (f) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33F of these Rules, unless the applicant is under the age of 18 at the time this application is made.

319K. Documentary evidence

- (a) Where Appendix E of these Rules states that specified documents must be provided, that means documents specified by the Secretary of State in the Tier 1 (General) (Dependants) Policy Guidance. If the specified documents are not provided, the applicant will not meet the requirement for which the specified documents are required as evidence.
- (b) If the Entry Clearance Officer or Secretary of State has reasonable cause to doubt the genuineness of any document submitted by an applicant which is, or which purports to be a specified document under Appendix E of these Rules and, having taken reasonable steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of this application."

33. After paragraph 320(7), insert:

"(7A) where false representations have been made or false documents have been submitted (whether or not material to the application, and whether or not to the applicant's knowledge), or material facts have not been disclosed, in relation to the application."

34. Delete paragraph 320(21).

35. For paragraph 321(i) substitute:

"(i) False representations were made or false documents were submitted (whether or not material to the application, and whether or not to the holder's knowledge), or material facts were not disclosed, in relation to the application for entry clearance; or"

36. For paragraph 321A(2) substitute:

“(2) false representations were made or false documents were submitted (whether or not material to the application, and whether or not to the holder’s knowledge), or material facts were not disclosed, in relation to the application for leave; or”

37. In paragraph 322 for the heading “**Grounds on which an application to vary leave to enter or remain in the United Kingdom is to be refused**” substitute:

“**Grounds on which leave to remain in the United Kingdom is to be refused**”

38. In paragraph 322 for the heading “**Grounds on which an application to vary leave to enter or remain in the United Kingdom should normally be refused**” substitute:

“**Grounds on which leave to remain in the United Kingdom should normally be refused**”

39. After paragraph 322(1) insert:

“(1A) where false representations have been made or false documents have been submitted (whether or not material to the application, and whether or not to the applicant’s knowledge), or material facts have not been disclosed, in relation to the application.”

40. Delete Appendices 4 and 5.

41. After Appendix 6, insert:

“Appendix A

Attributes

1. An applicant applying for leave to remain as a Tier 1 (General) Migrant must score 75 points for attributes.
2. Available points are shown in tables 1 to 4 below. Only one set of points will be awarded per table. For example, points will only be awarded for one qualification.
3. Notes to accompany the tables appear below each of the tables.

Table 1

Qualification	Points
Bachelor’s degree	30
Master’s degree	35
PhD	50

Qualifications: notes

4. Specified documents must be provided as evidence of the qualification, unless the applicant has, or was last granted, leave as a Highly Skilled Migrant or a Tier 1 (General) Migrant and previously scored points for the same qualification in respect of which points are being claimed in this application.
5. Points will only be awarded for a qualification if an applicant’s qualification is deemed by the National Recognition Information Centre for the United Kingdom (UK NARIC) to meet or exceed the recognised standard of a Bachelor’s or Master’s degree or a PhD in the UK.
6. Points will also be awarded for vocational and professional qualifications that are deemed by UK NARIC to be equivalent to a Bachelor’s or Master’s degree or a PhD in the UK.
7. If the applicant has, or was last granted, leave as a Tier 1 (General) Migrant or a Highly Skilled Migrant and the qualification for which points are now claimed was, in the applicant’s last successful application for leave or for a Highly Skilled Migrant Programme Approval Letter, assessed to be of a higher level than now indicated by UK NARIC, the higher score of points will be awarded in this application too.

Table 2

Previous earnings	Points
£16,000-£17,999	5
£18,000-£19,999	10
£20,000-£22,999	15
£23,000-£25,999	20
£26,000-£28,999	25
£29,000-£31,999	30
£32,000-£34,999	35
£35,000-£39,999	40
£40,000 or more	45

Previous earnings: notes

8. Specified documents must be provided as evidence of previous earnings.

Period for assessment

9. Applicants should indicate in the application form for which 12-month period their earnings should be assessed.

10. (a) For all applicants (except those referred to at paragraph 11 below) the period for assessment of earnings must:

- (i) consist of no more than 12 months which must run consecutively, and
- (ii) fall within the 15 months immediately preceding the application.

(b) If the applicant:

- (i) has been on maternity or adoption leave at some point within the 12 months preceding the application, and
- (ii) has provided the specified documents, or where due to exceptional circumstances the specified documents are not available, has provided alternative documents which show that the requirement in (i) is met, the applicant may choose for a period of no more than 12 months spent on maternity or adoption leave to be disregarded when calculating both the 12-month and 15-month period.

11. (a) If the applicant is a full-time student or has been a full-time student at some point within the 12 months preceding the application, and the specified documents have been provided, the period for assessment of earnings must:

- (i) consist of no more than 12 months which must run consecutively, and
- (ii) fall within the 15 months immediately preceding:

- (1) the application, or
- (2) the start of their full-time studies, whichever the applicant indicates.

(b) If the applicant has taken a series of full-time courses, with a gap between each course of not less than 12 months, and has provided the specified documents, the applicant may choose for the start of the full-time studies to be read as the 15-month period immediately preceding the start of the first course.

(c) If the applicant:

- (i) has been on maternity or adoption leave at some point within the 12 months preceding their application or the start of their full-time studies (whichever the applicant indicates), and

- (ii) has provided the specified documents, or where due to exceptional circumstances the specified documents are not available, has provided alternative documents which show that the requirement in (i) is met, the applicant may choose for a period of no more than 12 months spent on maternity or adoption leave to be disregarded when calculating both the 12-month and 15-month period.
- (d) Paragraphs (a) to (c) do not apply to an applicant who has, or last had, leave as Highly Skilled Migrant or Tier 1 (General) Migrant and is applying for leave to remain. For those applicants, the period of earnings will be assessed as indicated in paragraph 10 above.

12. If the applicant has not indicated a period for assessment of earnings, or has indicated a period which does not meet the conditions in paragraphs 10 or 11 above, their earnings will be assessed against the 12-month period immediately preceding their application, assuming the specified documents have been provided. Where the specified documents have not been provided, points will not be awarded for previous earnings.

Earnings

13. Earnings include, but are not limited to:

- (a) salaries (includes full-time, part-time and bonuses),
- (b) earnings derived through self-employment,
- (c) earnings derived through business activities,
- (d) statutory and contractual maternity pay, statutory and contractual adoption pay,
- (e) allowances (such as accommodation, schooling or car allowances) which form part of an applicant's remuneration package,
- (f) dividends from investments, where it is a company in which the applicant is active in the day-to-day management, or where the applicant receives the dividend as part of their remuneration package,
- (g) property rental income, where this constitutes part of the applicant's business, and
- (h) payments in lieu of notice.

14. Where the earnings take the form of a salary or wages, they will be assessed before tax (i.e. gross salary).

15. Where the earnings are the profits of a business derived through self-employment or other business activities, the earnings that will be assessed are the profits of the business before tax. Where the applicant only has a share of the business, the earnings that will be assessed are the profits of the business before tax to which the applicant is entitled.

16. Earnings do not include unearned sources of income, such as:

- (a) allowances (such as accommodation, schooling or car allowances) which are paid as reimbursement for monies the applicant has previously paid,
- (b) dividends from investments, unless it is a company in which the applicant is active in the day-to-day management, or unless the applicant receives the dividend as part of their remuneration package,
- (c) property rental income, unless this constitutes part of the applicant's business,
- (d) interest on savings,
- (e) funds received through inheritance,
- (f) monies paid to the applicant as a pension,
- (g) expenses where the payment constitutes a reimbursement for monies the applicant has previously outlaid,
- (h) statutory redundancy payment,
- (i) sponsorship for periods of study, or
- (j) state benefits.

17. Earnings will not be taken into account if the applicant was in breach of the UK's immigration laws at the time those earnings were made.

Converting foreign currencies

18. Earnings in a foreign currency will be converted to pound sterling (£) using the closing spot exchange rate for the last day of the period for which the applicant has claimed earnings in that currency.

19. If the applicant's earnings fall either side of a period of maternity or adoption leave, earnings in a foreign currency will be converted to pounds sterling (£) using the closing spot exchange rate which exists:

- (a) for the earnings earned before maternity or adoption leave, on the last day of the period before maternity leave, and
- (b) for the earnings earned after maternity or adoption leave, on the last day of the period after maternity leave.

20. The spot exchange rate which will be used is that which appears on www.oanda.com.¹

21. Once converted, earnings will be multiplied by the multiplier shown in table 2A below. The relevant country or territory is whichever country or territory the currency was earned in.

22. A multiplier will not be applied to overseas earnings (if any) of an applicant who has, or was last granted, leave as a Highly Skilled Migrant or Tier 1 (General) Migrant and who is applying for leave to remain.

23. Where the previous earnings claimed are in different currencies, any foreign currencies will be converted and multiplied before being added together, and then added to any UK earnings, to give a total amount.

¹This is an external website, for which the Home Office is not responsible.

Table 2A – Multipliers for conversion of foreign currencies

Country or territory in which money was earned	Multiplier
Andorra; Aruba; Australia; Austria; Belgium; Bermuda; Canada; Cayman Islands; Channel Islands; Denmark; Finland; France; French Polynesia; Germany; Gibraltar; Guam; Hong Kong (Province of China); Iceland; Ireland; Italy; Japan; Kuwait; Liechtenstein; Luxembourg; Monaco; Netherlands; Norway; Qatar; San Marino; Singapore; Sweden; Switzerland; United Arab Emirates; United Kingdom; United States of America; Vatican.	1
American Samoa; Antigua and Barbuda; Argentina; Bahamas; Bahrain; Barbados; Botswana; Brunei Darussalam; Chile; Costa Rica; Croatia; Cyprus; Czech Republic; Estonia; Faroe Islands; Greece; Greenland; Grenada; Hungary; Israel; Korea (South); Latvia; Lebanon; Libya; Macao (Province of China); Malaysia; Malta; Mauritius; Mexico; Netherlands Antilles; New Caledonia; New Zealand; Northern Mariana Islands; Oman; Palau; Panama; Poland; Portugal; Puerto Rico; Saudi Arabia; Seychelles; Slovak Republic; Slovenia; Spain; St Kitts and Nevis; St Lucia; Taiwan (Republic of China); Trinidad and Tobago; Turks and Caicos Islands; Uruguay; Venezuela; Virgin Islands (British and US).	2.3
Albania; Algeria; Belarus; Belize; Bolivia; Bosnia & Herzegovina; Brazil; Bulgaria; Cape Verde; China (People's Republic of); Colombia; Dominica; Dominican Republic; Ecuador; Egypt; El Salvador; Fiji; Gabon; Guatemala; Honduras; Iran; Jamaica; Jordan; Kazakhstan; Lithuania; Macedonia; Maldives; Marshall Islands; Micronesia; Morocco; Namibia; Nauru; Paraguay; Peru; Philippines; Romania; Russian Federation; Samoa; South Africa; St Vincent & The Grenadines; Suriname; Swaziland; Syrian Arab Republic; Thailand; Tonga; Tunisia; Turkey; Turkmenistan; Vanuatu; West Bank and Gaza.	3.2
Angola; Armenia; Azerbaijan; Bangladesh; Benin; Bhutan; Burma; Cameroon; Comoros; Congo (Republic of); Cuba; Djibouti; Equatorial Guinea; Gambia; Georgia; Guinea; Guyana; Haiti; India; Indonesia; Iraq; Ivory Coast (Cote d'Ivoire); Kenya; Kiribati; Lesotho; Mauritania; Moldova; Mongolia; Montenegro; Nicaragua; Pakistan; Papua New Guinea; Senegal; Serbia; Solomon Islands; Sri Lanka; Sudan; aTimor L'Este (East Timor); Ukraine; Uzbekistan; Vietnam; Yemen; Zambia; Zimbabwe.	5.3
Afghanistan; Burkina Faso; Burundi; Cambodia; Central African Republic; Congo, (Democratic Republic of); Chad; Eritrea; Ethiopia; Ghana; Guinea-Bissau; Korea (North); Kyrgyz Republic; Laos; Liberia; Madagascar; Malawi; Mali; Mayotte; Mozambique; Nepal; Niger; Nigeria; Rwanda; Sao Tome and Principe; Sierra Leone; Somalia; Tajikistan; Tanzania; Togo; Uganda.	11.4

Table 3

UK Experience: notes	
Applications for leave to remain where the applicant has, or was last granted, leave as a Highly Skilled Migrant or Tier 1 (General) Migrant	Points
If £16,000 or more of the previous earnings for which points are claimed were earned in the UK	5
All other applications for leave to remain	Points
If the qualification was obtained in the UK	5
If £16,000 or more of the previous earnings for which points are claimed were earned in the UK	5

UK Experience: notes

24. If an applicant has, or last had, leave as a Highly Skilled Migrant or a Tier 1 (General) Migrant, and is applying for leave to remain, points for UK experience will only be awarded for previous earnings earned in the UK (and not qualifications obtained in the UK).

25. If the applicant is applying for leave to remain (except where the applicant has, or was last granted, leave as a Highly Skilled Migrant or Tier 1 (General) Migrant), points for UK experience will only be awarded for qualifications obtained in the UK or previous earnings earned in the UK (but not both).

26. Specified documents must be provided as evidence of qualifications obtained in the UK.

27. Points will only be awarded for UK experience in respect of qualifications obtained in the UK if:

- (a) the qualification is a Bachelor's or Master's degree or a PhD, or a vocational or professional qualification, and is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK,
- (b) the qualification was awarded no more than 5 years before the application was made, and
- (c) at least 1 academic year, or 3 consecutive terms, of the course that led to the qualification involved full-time study in the UK.

28. For paragraph 27(b) above, the date the qualification is awarded is the date on which the applicant was first notified in writing, by the awarding institution, that the qualification had been awarded.

29. The qualification for which UK experience points are claimed can be, but does not have to be, the same as the qualification for which points are claimed under table 1.

30. Previous earnings will not be taken into account for the purpose of awarding points for UK experience if the applicant was in breach of the UK's immigration laws at the time those earnings were made.

Table 4

Age (at date of application)	
Applications for leave to remain (unless the applicant falls into the boxes below)	Points
Under 28 years of age	20
28 or 29 years of age	10
30 or 31 years of age	5
Applications for leave to remain where an applicant has, or last had, leave as a Tier 1 (General) Migrant	Points
Under 31 years of age	20
31 or 32 years of age	10
33 or 34 years of age	5
Applications for leave to remain where an applicant has, or last had, leave as a Highly Skilled Migrant	Points
Under 30 years of age	20
30 or 31 years of age	10
32 or 33 years of age	5

Age: notes

31. Specified documents must be provided as evidence of age.

Appendix B

English language

1. An applicant applying for leave to remain as a Tier 1 (General) Migrant must have 10 points for English language.
2. 10 points will only be awarded if the applicant:
 - (a) has the level of English language shown in the table below and:
 - (i) provides an original English language test certificate from an English language test provider approved by the Secretary of State for these purposes, which clearly shows the applicant's name; the qualification obtained (which must meet or exceed the level shown in the table below); and the date of the award, or
 - (ii) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, and which UK NARIC has confirmed was taught or researched in English to the level indicated in the table below, and provides the specified documents, or

Level of English language	Points
A knowledge of English equivalent to level C1 of the Council of Europe's Common European Framework for Language Learning or above	10

- (b) is a national of one of the following countries:
 - Antigua and Barbuda
 - Australia
 - The Bahamas
 - Barbados
 - Belize
 - Canada
 - Dominica
 - Grenada
 - Guyana
 - Jamaica
 - New Zealand
 - St Kitts and Nevis
 - St Lucia
 - St Vincent and The Grenadines
 - Trinidad and Tobago
 - the USA,and provides the specified documents, or
- (c) has obtained an academic qualification (not a professional or vocational qualification), which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, from an educational establishment in one of the following countries:
 - Antigua and Barbuda
 - Australia
 - The Bahamas
 - Barbados
 - Belize
 - Dominica
 - Grenada
 - Guyana
 - Ireland
 - Jamaica
 - New Zealand
 - St Kitts and Nevis
 - St Lucia
 - St Vincent and The Grenadines
 - Trinidad and Tobago
 - the UK
 - the USA,and provides the specified documents, or

- (d) has, or was last granted, leave as a Tier 1 (General) Migrant, or
- (e) has, or was last granted, leave as a Highly Skilled Migrant, if that leave was granted under these Rules at a time when they included the changes which came into force on 5 December 2006.²

²HC 1702.

Appendix C

Maintenance (funds)

1. An applicant applying for leave to remain as a Tier 1 (General) Migrant must score 10 points for funds.
2. 10 points will only be awarded if an applicant has the level of funds shown in the table below and provides the specified documents.

Level of funds	Points
£800	10

Appendix D

Immigration rules for leave to remain as a Highly Skilled Migrant as at 28 February 2008

Requirements for an extension of stay as a highly skilled migrant

135D. The requirements for an extension of stay as a highly skilled migrant for a person who has previously been granted entry clearance or leave in this capacity, are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a highly skilled migrant, or has previously been granted leave in accordance with paragraphs 135DA-135DH of these Rules; and
- (ii) has achieved at least 75 points in accordance with the criteria specified in Appendix 4 of these Rules, having provided all the documents which are set out in Appendix 5 (Part I) of these Rules which correspond to the points which he is claiming; and
- (iii) (a) has produced an International English Language Testing System certificate issued to him to certify that he has achieved at least band 6 competence in English; or
(b) has demonstrated that he holds a qualification which was taught in English and which is of an equivalent level to a UK Bachelors degree by providing both documents which are set out in Appendix 5 (Part II) of these Rules; and
- (iv) meets the requirements of paragraph 135A(ii)-(iii).

135DA The requirements for an extension of stay as a highly skilled migrant for a work permit holder are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a work permit holder in accordance with paragraphs 128 to 132 of these Rules; and
- (ii) meets the requirements of paragraph 135A (i)-(iii).

135DB The requirements for an extension of stay as a highly skilled migrant for a student are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a student in accordance with paragraphs 57 to 62 of these Rules; and
- (ii) has obtained a degree qualification on a recognised degree course at either a United Kingdom publicly funded further or higher education institution or a bona fide United Kingdom private education institution which maintains satisfactory records of enrolment and attendance; and
- (iii) has the written consent of his official sponsor to remain as a highly skilled migrant if he is a member of a government or international scholarship agency sponsorship and that sponsorship is either ongoing or has recently come to an end at the time of the requested extension; and
- (iv) meets the requirements of paragraph 135A(i)-(iii).

135DC. The requirements for an extension of stay as a highly skilled migrant for a postgraduate doctor or postgraduate dentist are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a postgraduate doctor or a postgraduate dentist in accordance with paragraphs 70 to 75 of these Rules; and
- (ii) has the written consent of his official sponsor to such employment if he is a member of a government or international scholarship agency sponsorship and that sponsorship is either ongoing or has recently come to an end at the time of the requested extension; and
- (iii) meets the requirements of paragraph 135A(i)-(iii).

135DD The requirements for an extension of stay as a highly skilled migrant for a working holidaymaker are that the applicant:

- (i) entered the United Kingdom as a working holidaymaker in accordance with paragraphs 95 to 96 of these Rules; and
- (ii) meets the requirements of paragraph 135A(i)-(iii).

135DE The requirements for an extension of stay as a highly skilled migrant for a participant in the Science and Engineering Graduates Scheme or International Graduates Scheme are that the applicant:

- (i) entered the United Kingdom or was given leave to remain as a participant in the Science and Engineering Graduates Scheme or International Graduates Scheme in accordance with paragraphs 135O to 135T of these Rules; and

(ii) meets the requirements of paragraph 135A(i)-(iii).

135DF. The requirements for an extension of stay as a highly skilled migrant for an innovator are that the applicant:

(i) entered the United Kingdom or was given leave to remain as an innovator in accordance with paragraphs 210A to 210E of these Rules; and

(ii) meets the requirements of paragraph 135A(i)-(iii).

135DG. Deleted.

135DH. The requirements for an extension of stay as a highly skilled migrant for a participant in the Fresh Talent: Working in Scotland scheme are that the applicant:

(i) entered the United Kingdom or was given leave to remain as a Fresh Talent: Working in Scotland scheme participant in accordance with paragraphs 143A to 143F of these Rules; and

(ii) has the written consent of his official sponsor to such employment if the studies which led to him being granted leave under the Fresh Talent: Working in Scotland scheme in accordance with paragraphs 143A to 143F of these Rules, or any studies he has subsequently undertaken, were sponsored by a government or international scholarship agency; and

(iii) meets the requirements of paragraph 135A(i)-(iii).

Extension of stay as a highly skilled migrant

135E. An extension of stay as a highly skilled migrant may be granted for a period not exceeding 3 years, provided that the Secretary of State is satisfied that each of the requirements of paragraph 135D, 135DA, 135DB, 135DC, 135DD, 135DE, 135DF or 135DH is met and that the application does not fall for refusal under paragraph 135HA.

Refusal of extension of stay as a highly skilled migrant

135F. An extension of stay as a highly skilled migrant is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 135D, 135DA, 135DB, 135DC, 135DD, 135DE, 135DF or 135DH is met or if the application falls for refusal under paragraph 135HA.

...

Additional grounds for refusal for highly skilled migrants

135HA. An application under paragraphs 135A-135H of these Rules is to be refused, even if the applicant meets all the requirements of those paragraphs, if:

(i) the applicant submits any document which, whether or not it is material to his application, is forged or not genuine, unless the Immigration Officer or Secretary of State is satisfied that the applicant is unaware that the document is forged or not genuine; or

(ii) the Immigration Officer or Secretary of State has cause to doubt the genuineness of any document submitted by the applicant and, having taken reasonable steps to verify the document, has been unable to verify that it is genuine.

Appendix E

Maintenance (funds) for the family of Tier 1 (General) Migrants

A sufficient level of funds must be available to an applicant applying as the Partner or Child of a Tier 1 (General) Migrant. A sufficient level of funds will only be available if the requirements below are met.

- (a) Where the Tier 1 (General) Migrant to whom the application is connected is outside the UK, or has been in the UK for a period of less than 12 months, there must be £1,600 in funds.
- (b) Where the Tier 1 (General) Migrant to whom the application is connected has been in the UK for a period of 12 months or more, there must be £533 in funds.
- (c) Where the applicant is applying as the Partner of a Tier 1 (General) Migrant, the relevant amount of funds must be available to either the applicant or the Tier 1 (General) Migrant.
- (d) Where the applicant is applying as the Child of a Tier 1 (General) Migrant, the relevant amount of funds must be available to the applicant, the Tier 1 (General) Migrant, or the applicant's other parent who is Lawfully present in the UK or being granted entry clearance, or leave to enter or remain, at the same time.
- (e) Where the Tier 1 (General) Migrant is applying for entry clearance or leave to remain at the same time as the applicant, the amount of funds available to the applicant must be in addition to the level of funds required separately of the Tier 1 (General) Migrant.
- (f) The applicant must provide the specified documents."

42. In paragraph 6, for the definition of "Tier 1 (General) Migrant" substitute:

"Tier 1 (General) Migrant" means a migrant who is granted leave under paragraphs 245A to 245D of these Rules."

43. In paragraph 6 after the definition of "Work Permit Holder", insert:

"In paragraph 320(7B) of these Rules:

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

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

"Overstayed" or "Overstaying" means the applicant has stayed in the UK beyond the time limit attached to his leave, or beyond the period that his leave was extended under sections 3C or 3D of the Immigration Act 1971."

44. In paragraph 135A(iv), delete "." and insert:

"," and

(v) if he makes an application for leave to enter on or after 29 February 2008, is not applying in India.

Immigration Officers at port should not refuse entry to passengers on the basis that they applied in India, if those passengers have a valid entry clearance for entry in this capacity."

45. In paragraph 135O(vi), for "245A-245F" substitute "245A-245G".

46. For Part 6A, substitute:

"PART 6A

POINTS-BASED SYSTEM

TIER 1 (GENERAL) MIGRANTS

245A. Purpose

This route is for highly skilled migrants who wish to work, or become self-employed in the UK.

245B. Entry to the UK

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

245C. Requirements for entry clearance or leave to remain

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

Requirements:

- (a) If applying for entry clearance, the applicant must be applying in India. Part 6A of these Rules does not apply to applications for entry clearance made elsewhere.
- (b) The applicant must not fall for refusal under the general grounds for refusal, and if applying for leave to remain, must not be an illegal entrant.
- (c) The applicant must have a minimum of 75 points under Appendix A.
- (d) The applicant must have 10 points under Appendix B.
- (e) The applicant must have 10 points under Appendix C.
- (f) An applicant who is applying for leave to remain must have, or have last been granted, entry clearance, leave to enter or remain:
 - (i) as a Highly Skilled Migrant,
 - (ii) as a Tier 1 (General) Migrant,
 - (iii) as an Innovator,
 - (iv) as a Participant in the Fresh Talent: Working in Scotland Scheme,
 - (v) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
 - (vi) as a Postgraduate Doctor or Dentist,
 - (vii) as a Student,
 - (viii) as a Student Nurse,
 - (ix) as a Student Re-Sitting an Examination,
 - (x) as a Student Writing-Up a Thesis, or
 - (xi) as a Work Permit Holder.
- (g) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist and:
 - (i) is currently being sponsored by a government or international scholarship agency, or
 - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,must provide the written consent of the sponsoring Government or agency to the application.

245D. Period and conditions of grant

- (a) Entry clearance will be granted for a period of 3 years.
- (b) 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 (General) Migrant,
 - (ii) for a period of 3 years, to any other applicant.
- (c) Entry clearance and leave to remain under this route will be subject to the following conditions:
 - (i) no recourse to public funds,
 - (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
 - (iii) no Employment as a Doctor in Training, unless the applicant:
 - (1) is in the UK and has, or has last been granted, entry clearance, leave to enter or remain as a Highly Skilled Migrant or as a Postgraduate Doctor or Dentist,

- (2) is in the UK and has, or has last been granted, entry clearance or leave to remain as a Tier 1 (General) Migrant and that grant was not subject to a condition prohibiting Employment as a Doctor in Training, or
- (3) has submitted with this application a valid Highly Skilled Migrant Programme Approval Letter, where the application for that approval letter was made on or before 6 February 2008.

245E. Requirements for indefinite leave to remain

To qualify for indefinite leave to remain, a Tier 1 (General) Migrant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused, unless the applicant qualifies for leave to remain by virtue of paragraphs 33E to 33F of these Rules.

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must have spent a continuous period of 5 years Lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (General) Migrant, and the rest may be made up of leave:
 - (i) as a Tier 1 (General) Migrant,
 - (ii) as a Highly Skilled Migrant,
 - (iii) as a Work Permit Holder,
 - (iv) as an Innovator.
- (c) The applicant must be economically active in the UK, in employment or self-employment or both.
- (d) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33F of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.

245F. Transitional arrangements

This paragraph makes special provision for applicants who on 29 February 2008 are in the UK, or on 1 April are in India, and who are in the process of applying to become a Highly Skilled Migrant. It will also be relevant to applicants who have, or have last been granted, leave to remain as a Highly Skilled Migrant, who are Self-Employed, and who fall within subparagraph (c) below.

- (a) If an applicant has made an application for entry clearance in India as a Highly Skilled Migrant before 1 April 2008, and the application has not been decided before that date, it will be decided in accordance with these Rules in force on 31 March 2008 as set out in Appendix D.
- (b) If an applicant has made an application for limited leave to remain as a Highly Skilled Migrant before 29 February 2008, and the application has not been decided before that date, it will be decided in accordance with these Rules in force on 28 February 2008 as set out in Appendix D.
- (c) If an applicant has made an application in India for entry clearance on or after 1 April 2008, or has made an application in the UK for limited leave to remain on or after 29 February 2008, and has submitted with that application a valid Highly Skilled Migrant Programme Approval Letter, the applicant will be automatically awarded 75 points under Appendix A and 10 points under Appendix B.
- (d) A Self-Employed applicant who has, or was last granted, leave to enter or remain as a Highly Skilled Migrant which was granted in accordance with the immigration rules in force on or before 8 November 2006 will be granted leave to remain as a Tier 1 (General) Migrant if the requirements below are met. If these requirements are not met, the applicant will not qualify for leave under this transitional provision.

Requirements:

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

- (ii) The applicant must have, or have last been granted, entry clearance, leave to enter or remain as a Highly Skilled Migrant which was granted in accordance with these Rules in force on or before 8 November 2006.
- (iii) The applicant must have become Self-Employed in the UK whilst having leave as a Highly Skilled Migrant, and must provide the specified documents.
- (iv) The applicant must have been Self-Employed for at least 4 months prior to the date the current application for leave to remain was made, and the specified documents must be provided.
- (v) The applicant must have ongoing business commitments for at least 6 months after the date the current application for leave to remain was made, and the specified documents must be provided.
- (vi) The applicant must have 10 points under Appendix B.
- (vii) The applicant must have 10 points under Appendix C.

If the requirements above are met, leave to remain as a Tier 1 (General) Migrant will be granted for a period of 3 years, subject to the conditions in paragraph 245D(c) above.

245G. Documentary evidence

- (a) Where Part 6A or Appendices A to C of these Rules state that specified documents must be provided, that means documents specified by the Secretary of State in the Tier 1 (General) Policy Guidance. If the specified documents are not provided, the applicant will not meet the requirement for which the specified documents are required as evidence.
- (b) If the Entry Clearance Officer or Secretary of State has reasonable cause to doubt the genuineness of any document submitted by an applicant which is, or which purports to be, a specified document under Part 6A or Appendices A to C of these Rules and, having taken reasonable steps to verify the document, is unable to verify that it is genuine, the document will be discounted for the purposes of this application.”

47. After paragraph 320(7A), insert:

“7B. where the applicant has previously breached the UK’s immigration laws by:

- (a) Overstaying,
- (b) breaching a condition attached to his leave,
- (c) being an Illegal Entrant,
- (d) using Deception in an application for entry clearance, leave to enter or remain (whether successful or not),

unless the applicant:

- (i) Overstayed for 28 days or less and left the UK voluntarily, not at the expense (directly or indirectly) of the Secretary of State,
- (ii) used Deception in an application for entry clearance more than 10 years ago,
- (iii) left the UK voluntarily, not at the expense (directly or indirectly) of the Secretary of State, more than 12 months ago,
- (iv) left the UK voluntarily, at the expense (directly or indirectly) of the Secretary of State, more than 5 years ago, or
- (v) was removed or deported from the UK more than 10 years ago.

Where more than one breach of the UK’s immigration laws has occurred, only the breach which leads to the longest period of absence from the UK will be relevant under this paragraph.”

48. Delete paragraphs 320(11) and (12).

49. In Appendix A, paragraph 1, after “An applicant applying for” insert the words “entry clearance or”.

50. In Appendix A, table 3, for the heading “All other applications for leave to remain” substitute:

“Applications for entry clearance and all other application for leave to remain”

51. In Appendix A, paragraph 25, after “If the applicant is applying for” insert the words “entry clearance or”.

52. In Appendix A, table 4, for the heading “**Applications for leave to remain (unless the applicant falls into the boxes below)**” substitute:

“**Applications for entry clearance and leave to remain (unless the applicant falls into the boxes below)**”

53. In Appendix B, paragraph 1, after “An applicant applying for” insert the words “entry clearance or”.

54. In Appendix C, paragraph 1, after “An applicant applying for” insert the words “entry clearance or”.

55. For Appendix C, paragraph 2, substitute:

“2. 10 points will only be awarded if an applicant:

- (a) applying for entry clearance, has the level of funds shown in the table below and provides the specified documents, or

Level of funds	Points
£2,800	10

- (b) applying for leave to remain, has the level of funds shown in the table below and provides the specified documents.

Level of funds	Points
£800	10

”

56. In Appendix D, for the heading “**Immigration rules for leave to remain as a Highly Skilled Migrant as at 28 February 2008**” substitute:

“**Immigration rules for leave to enter as a Highly Skilled Migrant as at 31 March 2008, and immigration rules for leave to remain as a Highly Skilled Migrant as at 28 February 2008**”

57. In Appendix D, below the new heading “Immigration rules for leave to enter as a Highly Skilled Migrant as at 31 March 2008, and immigration rules for leave to remain as a Highly Skilled Migrant as at 28 February 2008” insert:

“**Requirements for leave to enter the United Kingdom as a highly skilled migrant**

135A. The requirements to be met by a person seeking leave to enter as a highly skilled migrant are that the applicant:

- (i) must produce a valid document issued by the Home Office confirming that he meets, at the time of the issue of that document, the criteria specified by the Secretary of State for entry to the United Kingdom under the Highly Skilled Migrant Programme; and
- (ii) intends to make the United Kingdom his main home; and
- (iii) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (iv) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a highly skilled migrant

135B. A person seeking leave to enter the United Kingdom as a highly skilled migrant may be admitted for a period not exceeding 2 years, subject to a condition prohibiting Employment as a Doctor in Training, provided the Immigration Officer is satisfied that each of the requirements of paragraph 135A is met and that the application does not fall for refusal under paragraph 135HA.

Refusal of leave to enter as a highly skilled migrant

135C. Leave to enter as a highly skilled migrant is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 135A is met or if the application falls for refusal under paragraph 135HA.”



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone Fax & E-Mail

TSO

PO Box 29, Norwich NR3 1GN

Telephone orders/General enquiries 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

TSO Shops

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

The Parliamentary Bookshop

12 Bridge Street, Parliament Square,

London SW1A 2JX

TSO@Blackwell and other Accredited Agents

ISBN 978-0-10-295320-6



9 780102 953206

**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 6 FEBRUARY 2008 (HC 321)**

1. Introduction

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

2. Description

2.1 This Statement of Changes in Immigration Rules contains the following changes:

- The first part of the Points Based System is being implemented, which is the Tier 1 (General) route for highly skilled migrants, together with provision for their dependants. The route will be open to migrants applying in-country from 29 February 2008; and open to migrants applying overseas in India from 1 April 2008. The route will later be opened to all migrants applying overseas.
- Highly Skilled Migrants, Tier 1 (General) Migrants and their dependants will, in certain circumstances, have a condition imposed on their leave to enter or remain in the UK prohibiting them from taking employment as a doctor in training.
- The rules for indefinite leave to remain as a work permit holder are being amended to allow time spent in the UK as a Highly Skilled Migrant to count towards the 5 year qualifying period for settlement.
- The General Grounds for Refusal are being amended to provide for the mandatory refusal of applications in which deception is used. They are also being amended so that previous breaches of the UK's immigration laws will be taken into account in a consistent manner.
- Rules are being inserted to simplify the process for introducing specified application forms and procedures for applications or claims in connection with immigration.

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

3.1 None.

4. Legislative Background

- 4.1. The Immigration Rules are the Rules made under section 3(2) of the Immigration Act 1971. These constitute a statement of practice, as laid before Parliament by the Home Secretary, to be followed in regulating entry into, and stay of persons in, the United Kingdom. Under section 3(2) the Secretary of State is obliged "... from time to time (and as soon as may be) lay before Parliament statements of the Rules, or any changes in the Rules, laid down by him as to the practice to be followed in the administration of this Act ..".
- 4.2. Paragraphs 2-3 of the Statement of Changes implement powers conferred by Section 50(1) of the Immigration, Asylum and Nationality Act 2006 (the 2006 Act), which confers powers to make rules under section 3 of the Immigration Act 1971 requiring a specified procedure to be followed when making an application or claim in connection with immigration. The rules may, in particular, require a specified form to be used, specified information and documents to be provided, direct the manner in which a fee is to be paid and provide for the consequences of not complying with a specified requirement.
- 4.3. Section 50(3)(a) of the 2006 Act, which will be commenced on 29 February 2008, repeals section 31A of the Immigration Act 1971, which confers powers to make Regulations prescribing application forms and procedures for applications made under that Act. The Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2007 which are made under section 31A of the Immigration Act 1971 will cease to have effect when section 31A is repealed.
- 4.4. Paragraphs 1-41 of this Statement of Changes will come into force on 29 February 2008. The rest of the statement will come into effect on 1 April 2008.
- 4.5. This Statement of Changes in Immigration Rules has been incorporated into a consolidated version of the Immigration Rules, which can be found under the 'Laws & Policy' page at: www.bia.homeoffice.gov.uk, where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

5. Extent

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

6. European Convention on Human Rights

6.1. As the instrument is subject to 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.

The Points-Based System

7.2. In March 2006, following an extensive public consultation, a command paper entitled **A Points-Based System: Making Migration Work for Britain** (CM 6741) was published. This set out proposals to modernise and strengthen the UK's immigration system by bringing in an Australian-style points system comprising five tiers:

- Tier 1: Highly Skilled individuals to contribute to growth and productivity;
- Tier 2: Skilled workers with a job offer to fill gaps in the UK labour force;
- Tier 3: Low skilled workers to fill specific temporary labour shortages;
- Tier 4: Students;
- Tier 5: Youth mobility and temporary workers: people coming to the UK to fulfil primarily non-economic objectives.

7.3. More detailed plans for Tier 1 were set out in a Statement of Intent published on 5 December 2007. When it is fully launched, Tier 1 will cover four routes of entry and stay in the UK:

- Tier 1 (General): for migrants who wish to find highly skilled employment or self-employment in the UK;
- Entrepreneurs: for those investing in the UK by setting up or taking over, or being actively involved in the running of, a business;
- Investors: for high net worth individuals making a substantial financial investment in the UK;
- Post-Study Work: to retain the most able international graduates who have studied in the UK.

7.4. This Statement of Changes in Immigration Rules implements Tier 1 (General) only, and initially only for applications for leave to remain made in the UK. From 1 April 2008 the route will open to applications for entry clearance made in India. A further change to the immigration rules will be made in the summer, extending this route to the rest of the world.

7.5. A fundamental difference between Tier 1 (General) and the immigration rules for highly skilled migrants will be the concept of the single decision. Under the immigration rules for highly skilled migrants, applicants applying for entry clearance, or to switch from another immigration category, are required to obtain an approval letter from the Border and Immigration Agency. Once they obtain that letter, they need to make a separate application under the immigration rules for entry clearance or leave to remain. Under Tier 1 (General), they will make one application in which all the requirements will be considered. This will provide a more efficient and transparent service to migrants, while strengthening the Border and Immigration Agency's control of the system

The Tier 1 (General) route

7.6. This route is for highly skilled migrants. Migrants seeking to enter the UK in Tier 1 (General) will need entry clearance.

7.7. Applicants will need to obtain 75 points for a combination of attributes such as qualifications, age and previous earnings. Both the points awarded and the pass mark are similar to those that existed under the immigration rules for highly skilled migrants. Full details of the points that will be awarded for the various attributes, and the circumstances in which they will be awarded, are set out in Appendix A of the immigration rules.

- 7.8. Migrants under Tier 1 (General) will need a knowledge of English equivalent to level C1 of the Council of Europe's Common European Framework for Language Learning. This is approximately equivalent to a GCSE pass at grades A-C. Migrants will be able to supply a wider range of evidence than they could under the immigration rules for Highly Skilled Migrants to prove that they meet that requirement. Nationals of majority-English-speaking countries, as defined in the immigration rules, will be deemed automatically to meet the language requirement. Full details appear in Appendix B of the immigration rules.
- 7.9. We consider it important that migrants in Tier 1 (General) have a reserve of funds to support themselves if, for example, they experience periods of unemployment. The amounts they will be required to have are specified in Appendix C of the immigration rules. In our view, this is more objective than a requirement that migrants be able to "maintain and accommodate" themselves.
- 7.10. Subject to the exception described in paragraphs 7.11-7.13, successful applicants under Tier 1 (General) will be given free access to the labour market, and will be able to work for an employer, or be self-employed.

Employment as a doctor in training

- 7.11. With certain exceptions, Tier 1 (General) Migrants will not be able to take a post as a doctor in training. There are exceptions for those who currently have leave as a Highly Skilled Migrant, or a Postgraduate Doctor or Dentist, who are seeking leave to remain as a Tier 1 (General) Migrant.
- 7.12. The same restriction will apply to new applicants to the Highly Skilled Migrant Programme. It will also apply to dependants of Highly Skilled Migrants and Tier 1 (General) Migrants, subject to some exceptions.
- 7.13. This provision is being introduced at the request of the Department of Health in order to support doctors who received their medical training in the UK to access taxpayer-funded NHS training posts. It is the Department of Health's view that this provision will help to maximise the return on the significant investment in postgraduate medical training and to secure the future supply of trained specialists.

Settlement

- 7.14. Tier 1 (General) Migrants will be able to apply for settlement after five years in the UK, subject to meeting the requirements set out in the immigration rules.

Transitional arrangements

- 7.15. This Statement of Changes deletes the existing immigration rules for leave to remain as a Highly Skilled Migrant (on 29 February 2008), and excludes applicants applying in India from the immigration rules for leave to enter as a Highly Skilled Migrant (on 1 April 2008). There are transitional arrangements for migrants who are already in the process of applying to become a Highly Skilled Migrant at the date of these rules changes. The transitional provisions cater for migrants who have already applied for entry clearance or leave to remain as a Highly Skilled Migrant before the date of the rules change, as well as migrants who have obtained a Highly Skilled Migrant Programme Approval letter from the Home Office, but have not yet applied for entry clearance or leave to remain.
- 7.16. On 7 November 2006, we made significant amendments to the immigration rules on Highly Skilled Migrants (see the Statement of Changes HC 1702)- in particular requiring those who sought to extend their stay in the UK under those immigration rules to obtain a certain number of points and meet an English language requirement. At the same time, we introduced transitional arrangements that allowed those migrants who were already in the UK as Highly Skilled Migrants but who did not meet the new requirements to remain if they met certain other conditions.
- 7.17. Where those migrants were working for an employer, we allowed the employer to apply for a permit on their behalf. In order that migrants who obtain work permits under these arrangements do not have to wait longer in order to qualify for settlement, we are amending the immigration rules for indefinite leave to remain as a work permit holder (paragraph 134 of the immigration rules) to provide that time previously spent here as a Highly Skilled Migrant will count towards settlement in the work permit category.

7.18. We are also adding the transitional provisions for self employed Highly Skilled Migrants, who do not meet the requirements for Tier 1 (General), to the immigration rules (these previously existed as a concession outside the immigration rules). This makes the requirements more transparent and ensures that leave is granted under the immigration rules, rather than as the result of a concession.

Family members of Tier 1 (General) Migrants

7.19. Migrants under Tier 1 (General) will be able to be joined by their spouse, civil partner, unmarried or same sex partner and their children (though the latter will need to be under 18 when they first apply for leave under this route).

7.20. The requirements that the family members will have to meet appear in the immigration rules. They are broadly similar to those that family members of Highly Skilled Migrants or Work Permit Holders have to meet. However, the provisions governing the grant of indefinite leave to remain to spouses, civil partners and unmarried/same sex partners will differ slightly. Such persons will only be eligible to be granted settlement at the same time as the Tier 1 (General) migrant if they have lived with that migrant in the UK for at least two years. If they do not meet this requirement, they will be able to apply for further limited leave as the spouse, civil partner or unmarried/same sex partner of a person present and settled in the UK, and will be able to count the earlier time they spent living here with the Tier 1 (General) migrant towards the two year "probationary" period they need to serve in that category before being eligible for settlement in their own right. This is intended to ensure that we treat the partners of Tier 1 (General) Migrants in the same way as we treat those of people present and settled in the UK.

General Grounds for Refusal

7.21. Along with these changes, we are amending the general grounds for refusal in two ways.

7.22. The first amendment, which will come into force on 29 February 2008, provides that any application in which deception is used should automatically be refused. The immigration rules for Highly Skilled Migrants already stated that any application in which forged documents were submitted should automatically be refused (unless the applicant could prove that he or she did not know that they were forged). Because of the importance of ensuring that immigration applicants tell the truth, we are extending this to all applications, and to all forms of deception (not just the submission of forged documents).

7.23. From 1 April 2008, we will be amending the immigration rules that govern the way in which an entry clearance application should be treated where the applicant has previously breached the UK's immigration laws by:

- Overstaying while in the UK;
- Entering the UK illegally;
- Using deception (e.g. submitting false documents) in an immigration application; or
- Breaching his or her conditions of stay while in the UK (e.g. working illegally).

7.24. The previous immigration rules on this subject did not cover all the above breaches. They also gave a great deal of discretion to caseworkers, with the potential for inconsistent decision-making. The new immigration rules replace this by setting out a clear period during which a previous immigration offender will have any future applications to come here refused.

7.25. Applicants who have been refused entry clearance after having used deception in their applications will have any future applications they make refused for ten years. Other immigration offenders (other than those who overstayed for 28 or fewer days and left at their own expense) will be refused for the following periods:

- One year if, following their breach, they left the UK voluntarily at their own expense;
- Five years if, following their breach, they left the UK voluntarily at public expense; and
- Ten years if they were removed or deported from the UK following their breach.

7.26. Where migrants have left the UK at public expense, we will also require them to repay the cost of their departure, once we have introduced primary legislation that allows us to do so.

Specification of application forms and procedures

- 7.27. Compulsory application forms for immigration applications made in the United Kingdom were first introduced in 1996 in order to make the relevant requirements clearer to applicants and to make the process more efficient. They were prescribed under the Immigration Rules – paragraph 32 of HC 395 as amended by paragraph 2 of HC 329.
- 7.28. Since August 2003, application forms and procedures have been prescribed by Regulations made under section 31A of the Immigration Act 1971 (currently the Immigration (Leave to Remain) (Prescribed Forms and Procedures) Regulations 2007). The introduction of any new prescribed form or any change of substance to an existing prescribed form has required Regulations amending the existing ones to be laid.
- 7.29. Setting out the procedures in Immigration Rules introduced by this Statement of Changes is designed to make the requirements for determining the validity of an application simpler and more transparent than the existing Regulations, with the resulting benefits of easier administration and improved consistency.
- 7.30. In addition, section 50(2) of the 2006 Act allows new or revised application forms to be specified administratively. It is intended that forms will be specified by announcement on the website of the Border and Immigration Agency of the Home Office, and the forms will be clearly marked as specified from the relevant date.
- 7.31. The changes will have a wider application than the existing Regulations which only apply to applications for leave to remain in the United Kingdom, whereas the Immigration Rules will apply to any application or claim in connection with immigration for which a form is specified in accordance with the Immigration Rules. In the future it is intended that forms will be specified for immigration applications made overseas. This will ensure a more uniform procedural basis for immigration applications generally.
- 7.32. The changes also include particular provision for procedural requirements resulting from the introduction of the points-based system and the need to provide biographical or biometric information.

Transitional arrangements

- 7.33. There are transitional provisions for applications for leave to remain made before 29 February 2008 but considered after that date. There are also transitional provisions for applications made within 21 days of the date on which a new form is specified in accordance with the Immigration Rules, which permit the use of the form that was permitted immediately prior to the date of such specification.
- 7.34. In conjunction with these changes, paragraphs 32 and 33 of the Immigration Rules are being deleted, as the provisions therein are now redundant. A consequential change has also been made to the existing paragraph 34.

8. Impact

- 8.1. An impact assessment on these changes will be published on the website of the Border and Immigration Agency at <http://www.bia.homeoffice.gov.uk/aboutus/consultations/>, and on the Home Office website at <http://www.homeoffice.gov.uk/about-us/haveyoursay/>. Copies will also be placed in the House libraries.
- 8.2. The Department of Health will publish a separate impact assessment on the condition preventing work as a doctor in training.

9. Contact

- 9.1. All queries should be addressed to the Home Office's Immigration Enquiry Bureau on telephone 0870 606 7766 or by email to www.indpublicenquiries@homeoffice.gsi.gov.uk