

STATEMENT OF CHANGES IN IMMIGRATION RULES

*Laid before Parliament on 4 November 2008 under section 3(2) of
the Immigration Act 1971*

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STATEMENT OF CHANGES IN IMMIGRATION RULES

The Home Secretary has made the changes hereinafter stated in the Rules laid down by her as to the practice to be followed in the administration of the Immigration 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), 19 November 2007 (HC 82), 6 February 2008 (HC 321), 17 March 2008 (HC 420), 9 June 2008 (HC 607), 10 July 2008 (HC 951) and 15 July 2008 (HC 971).

The changes in paragraphs 5 to 9 shall take effect on 25th November 2008.

The other changes shall take effect on 27th November 2008. However, if an applicant has made an application for leave before 27th November 2008 under any of the paragraphs of the Rules deleted by paragraph 39(a), (b) and (d) to (p) below, and the application has not been decided before that date, it will be decided in accordance with the Rules in force on 26th November 2008 as set out in Appendix F.

1. (a) In paragraph 6, after the definition of “Work Permit Holder” insert:

Under Part 6A of these Rules, an “A-rated Sponsor” is a Sponsor which is recorded as being “A-rated” on the register of licensed Sponsors maintained by the United Kingdom Border Agency.

Under Part 6A of these Rules, “Certificate of Sponsorship” means an authorisation issued by the Secretary of State to a Sponsor in respect of one or more applications, or potential applications, for entry clearance, leave to enter or remain in accordance with these Rules.

Under Part 6A of these Rules, “Certificate of Sponsorship Checking Service” means a computerised interface with the Points Based System computer database which allows a United Kingdom Border Agency caseworker or entry clearance officer assessing a migrant’s application for entry clearance, leave to enter or leave to remain to access and review details of the migrant’s Certificate of Sponsorship, including details of the migrant’s Sponsor, together with details of the job or course of study and other details associated with the circumstances in which the Certificate of Sponsorship was issued.

Under Part 6A of these Rules, “Established Entertainer” means an applicant who is applying for leave to remain as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant in respect of whom the following conditions are satisfied:

- (a) the Certificate of Sponsorship Checking Service entry to which the applicant’s Certificate of Sponsorship reference number relates, records that the applicant is being sponsored in an occupation which is defined in the United Kingdom Border Agency’s Transitional Guidance as being a job in the entertainment sector,
- (b) the applicant has, or has previously had, entry clearance, leave to enter or leave to remain in the UK as a Work Permit Holder, and the work permit that led to that grant was issued in the sports and entertainment category to enable him to work in the occupation in which he is, at the date of the application for leave to remain, currently being sponsored,
- (c) the applicant’s last grant of leave was as:
 - (i) a Work Permit Holder in the sports and entertainment category, provided the work permit that led to that grant was issued in the sports and entertainment category to enable him to work either in the occupation in which he is, at the date of the current application for leave to remain, currently being sponsored, or in another occupation which is defined in the United Kingdom Border Agency’s Transitional Guidance as being a job in the entertainment sector, or
 - (ii) a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, provided (in either case) that at the time of that last grant of leave points were awarded under the transitional arrangements provisions in Table 11 of Appendix A, and provided (again in either case) that that grant was made to enable him to work either in the occupation in which he is currently being sponsored or in another occupation which is defined in the United Kingdom Border Agency’s Transitional Guidance as being a job in the entertainment sector,

- (d) the Certificate of Sponsorship Checking Service entry to which the applicant's Certificate of Sponsorship reference number relates records:
 - (i) that the applicant will be paid a salary for the job that is at or above the appropriate entertainments industry rate, as listed in the United Kingdom Border Agency's Transitional Guidance; and
 - (ii) that before agreeing to employ the applicant, the Sponsor consulted with such bodies as the United Kingdom Border Agency's Transitional Guidance indicates that it should consult with before employing someone in this capacity, and
- (e) the applicant has not spent a period of 5 years or more in the UK, beginning with the last grant of entry clearance, as a Qualifying Work Permit Holder, Tier 2 (General) Migrant or Tier 2 (Intra-Company Transfer) Migrant, or in any combination of these.

Under Part 6A of these Rules, "Qualifying Work Permit Holder" means a Work Permit Holder who was issued a work permit in the business and commercial or sports and entertainment work permit categories.

Under Part 6A of these Rules, "Senior Care Worker" means an applicant who is applying for leave to remain as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant in respect of whom the following conditions are satisfied:

- (a) the Certificate of Sponsorship Checking Service entry to which the applicant's Certificate of Sponsorship reference number relates, records that the applicant is being sponsored in an occupation which is defined in the United Kingdom Border Agency's Guidance as being a senior care worker role,
- (b) the applicant's last grant of leave was as:
 - (i) a Qualifying Work Permit Holder, or
 - (ii) a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, provided (in either case) that at the time of that last grant of leave points were awarded under the transitional arrangements provisions in Table 11 of Appendix A.
- (c) the work permit or Certificate of Sponsorship that led to the last grant of leave was issued to enable the applicant to work as a senior care worker, and
- (d) the applicant has not spent a period of 5 years or more in the UK, beginning with the last grant of entry clearance, as a Qualifying Work Permit Holder, Tier 2 (General) Migrant or Tier 2 (Intra-Company Transfer) Migrant, or in any combination of these.

Under Part 6A of these Rules, "Sponsor" means the person or Government that the Certificate of Sponsorship Checking Service records as being the Sponsor for a migrant.

Under Part 6A of these Rules, a reference to a "sponsor licence" means a licence granted by the Secretary of State to a person who, by virtue of such a grant, is licensed as a Sponsor under Tiers 2, 4 or 5 of the Points Based System.

Under Part 6A of these Rules, "supplementary employment" means other employment in the same profession and at the same professional level as that which the migrant is being sponsored to do provided that:

- (a) the migrant remains working for the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do,
- (b) the other employment does not exceed 20 hours per week and takes place outside of the hours when the migrant is contracted to work for the Sponsor in the employment the migrant is being sponsored to do."

(b) In paragraph 6, after the definition of "Tier 1 Migrant", insert:

"Points Based System Migrant" means a migrant applying for or granted leave as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 Migrant.

"Tier 2 (General) Migrant" means a migrant granted leave under paragraphs 245ZB to 245ZH of these Rules and who obtains points under paragraphs 59 to 84 of Appendix A but who does not obtain points under the intra-company transfer provisions in Table 10 of that Appendix.

"Tier 2 (Intra-Company Transfer) Migrant" means a migrant granted leave under paragraphs 245ZB to 245ZH of these Rules and who obtains points under paragraphs 59 to 84 of Appendix A including points under the intra-company transfer provisions of that Appendix.

"Tier 2 (Minister of Religion) Migrant" means a migrant granted leave under paragraphs 245ZB to 245ZH of these Rules and who obtains points under paragraphs 85 to 92 of Appendix A.

"Tier 2 (Sportsperson) Migrant" means a migrant granted leave under paragraphs 245ZB to 245ZH of these Rules and who obtains points under paragraphs 93 to 100 of Appendix A.

"Tier 2 Migrant" means a migrant granted leave under paragraphs 245ZB to 245ZH of these Rules.

"Tier 5 (Youth Mobility) Temporary Migrant" means a migrant granted leave under paragraphs 245ZI to 245ZL of these Rules.

“Tier 5 (Temporary Worker) Migrant” means a migrant granted leave under paragraphs 245ZM to 245ZR of these Rules.

“Tier 5 Migrant” means a migrant who is either a Tier 5 (Temporary Worker) Migrant or a Tier 5 (Youth Mobility) Temporary Migrant.

“Jewish Agency Employee” means a migrant granted leave outside of these Rules under the concession that formerly appeared in Chapter 17 Section 5 Part 2 of the Immigration Directorate Instructions.

“Member of the Operational Ground Staff of an Overseas-owned Airline” means a migrant granted leave under paragraphs 178 to 185 of the Rules in force before 27 November 2008.

“Minister of Religion, Missionary or Member of a Religious Order” means a migrant granted leave under paragraphs 170 to 177A of the Rules in force before 27 November 2008.

“Overseas Qualified Nurse or Midwife” means a migrant granted leave under paragraphs 69M to 69R of the Rules in force before 27 November 2008.

“Participant in the Science and Engineering Graduates Scheme” means a migrant granted leave under paragraphs 135O to 135T of the Rules in force before 1 May 2007.

“Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation” means a migrant granted leave under paragraphs 136 to 143 of the Rules in force before 27 November 2008.

“Student Union Sabbatical Officer” means a migrant granted leave under paragraphs 87A to 87F of the Rules in force before 27 November 2008.

“Working Holidaymaker” means a migrant granted leave under paragraphs 95 to 97 of the Rules in force before 27 November 2008.

A “Business Visitor” is a person granted leave to enter or remain in the UK under paragraphs 46G-46L, 75A-F or 75G-M of these Rules.

An “Academic Visitor” is a person who is from an overseas academic institution or who is highly qualified within his own field of expertise seeking leave to enter the UK to carry out research and associated activities for his own purposes.

A “Visiting Professor” is a person who is seeking leave to enter the UK as an academic professor to accompany students who are studying here on Study Abroad Programmes.

A “Sports Visitor” is a person granted leave to enter or remain in the UK under paragraphs 46M-46R of these Rules.

An “Amateur” is a person who engages in a sport or creative activity solely for personal enjoyment and who is not seeking to derive a living from the activity.

A “Series of events” is two or more linked events, such as a tour, or rounds of a competition, which do not add up to a league or a season.

An “Entertainer Visitor” is a person granted leave to enter or remain in the UK under paragraphs 46S-46X of these Rules.

A “Special Visitor” is a person granted leave for a short-term visit in the following circumstances:

- (a) A person granted leave to enter or remain in the UK as a visitor for private medical treatment under paragraphs 51 – 56 of these Rules
- (b) A person granted leave to enter or remain in the UK for the purpose of marriage under paragraphs 56D – 56F of these Rules
- (c) A person granted leave to enter or remain in the UK as a Parent of a child at school under paragraphs 56A – 56C of these Rules
- (d) A person granted leave to enter or remain in the UK as a Child Visitor under paragraphs 46A – 46F of these Rules
- (e) A person granted leave to enter or remain in the UK as a Student Visitor under paragraphs 56K – 56M of these Rules
- (f) A person granted leave to enter or remain in the UK as a Prospective Student under paragraphs 82-87 of these Rules
- (g) A person granted leave to enter the UK as a Visitor in transit under paragraphs 47 - 50 of these Rules.

A “Permissible Activity” means a business activity of a type listed in United Kingdom Border Agency guidance specifying the activities that a business person may undertake during a short-term business visit to the UK.”.

2. In paragraph 28, for “Any other application” (in the third sentence) substitute “Subject to paragraph 28A, any other application”.

3. After Paragraph 28, insert:

“28A. (a) An application for entry clearance as a Tier 5 (Temporary Worker) Migrant in the creative and sporting sub-category of Tier 5 may also be made at the post in the country or territory where the applicant is situated at the time of the application, provided that:

 - (i) the post has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant,
 - (ii) the applicant is in that country or territory for a similar purpose to the activity he proposes to undertake in the UK, and
 - (iii) the applicant is able to demonstrate to the Entry Clearance Officer that he has authority to be living in that country or territory in accordance with its immigration laws. Those applicants who are known to the authorities of that country or territory but who have not been given permission to live in that country or territory will not be eligible to make an application.

(b) An application for entry clearance as a Tier 5 (Youth Mobility Scheme) Temporary Migrant may also be made at the post in the country or territory where the applicant is situated at the time of the application, provided that:

 - (i) the post has been designated by the Secretary of State to accept applications for entry clearance for that purpose and from that category of applicant, and
 - (ii) the applicant is able to demonstrate to the Entry Clearance Officer that he has authority to be living in that country or territory in accordance with its immigration laws and that when he was given authority to live in that country or territory he was given authority to live in that country or territory for a period of more than 6 months. Those applicants who are known to the authorities of that country or territory but who have not been given permission to live in that country or territory will not be eligible to make an application.”.
 3. In paragraph 29, after “paragraph 28” insert “and 28A”.
 4. In paragraphs 34, 34B and 34G, for each occurrence of “Border and Immigration Agency” substitute “United Kingdom Border Agency”.
 5. In paragraph 34A(iv), delete “or biometric”.
 6. At the end of paragraph 34A(vi)(a) delete “and”.
 7. After paragraph 34A(vi)(a) insert:

“(ab) those photographs must be in the same format specified as mandatory in the application form and/or related guidance notes, and”.
 8. At the end of paragraph 34A(vii)(a) delete “and”.
 9. After paragraph 34A(vii)(a) insert:

“(ab) those photographs must be in the same format specified as mandatory in the application form and/or related guidance notes, and”.
 10. In paragraph 34B(i)(a), for “Tier 1 Migrant” substitute “Tier 1 Migrant or Tier 2 Migrant, other than an application for limited leave to remain as a Tier 1 (Post-Study Work) Migrant”.
 11. In paragraph 34B(i)(d), after “Tier 2” insert “, Tier 4 or Tier 5 (Temporary Worker)”.
 12. In paragraph 34B(i)(d), delete “or”.
 13. At the end of paragraph 34B(i)(e), for “.” substitute “, or”.
 14. After paragraph 34B(1)(e), insert “(f) limited leave to remain as a Tier 5 (Temporary Worker) Migrant.”.
 15. In paragraph 34B(ii)(a), for “Tier 1 Migrant” substitute “Tier 1 Migrant or Tier 2 Migrant.”.
 16. In paragraph 34B(ii)(b), delete “, or for Home Office approved training or work experience”.
 17. At the end of paragraph 34B(ii)(b) delete “or”.
 18. At the end of paragraph 34B(ii)(c), for “.” substitute “, or”.
 19. After paragraph 34B(ii)(c) insert “(d) limited leave to remain as a Tier 5 (Temporary Worker) Migrant.”.
 20. After paragraph 34B(ii)(d) insert:

“(iii) an application may not be sent by pre-paid post, and must be made online, if it is an application for a Tier 2, Tier 4 or Tier 5 (Temporary Worker) sponsorship licence.”.
 21. For the heading above paragraph 40 “Requirements for leave to enter as a visitor” substitute “Requirements for leave to enter as a general visitor”.
 22. Delete paragraph 40 and substitute.

“40. For the purposes of paragraphs 41-46 a general visitor includes a person living and working outside the United Kingdom who comes to the United Kingdom as a tourist. A person seeking leave to enter the United Kingdom as a Business Visitor, which includes Academic Visitors, must meet the requirements of paragraph 46G. A person seeking entry as a Sports Visitor must meet the requirements of paragraph 46M. A person seeking entry as an Entertainer Visitor must meet the requirements of paragraph 46S.”.

23. In paragraph 41 replace “visitor” with “general visitor”
24. In paragraph 41(i) replace “visitor” with “general visitor”.
25. At the end of paragraph 41(viii) replace “.” with “; and”.
26. After paragraph 41(viii) insert:
“(ix) does not intend to do any of the activities provided for in paragraphs 46G (iii), 46M (iii) or 46S (iii);
and
(x) does not, during his visit, intend to marry or form a civil partnership, or to give notice of marriage or civil partnership; and
(xi) does not intend to receive private medical treatment during his visit; and
(xii) is not in transit to a country outside the common travel area.”.
27. For paragraphs 42 , 43, 44, 45 and 46, substitute:
“Leave to enter as a general visitor
42. A person seeking leave to enter to the United Kingdom as a general visitor may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 41 is met.
Refusal of leave to enter as a general visitor
43. Leave to enter as a general visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 41 is met.
Requirements for an extension of stay as a general visitor
44. Six months is the maximum permitted leave which may be granted to a general visitor. The requirements for an extension of stay as a general visitor are that the applicant:
(i) meets the requirements of paragraph 41 (ii)-(vii) and (ix)-(xii); and
(ii) has not already spent, or would not as a result of an extension of stay spend, more than 6 months in total in the United Kingdom as a general visitor. Any periods spent as a child visitor are to be counted as a period spent as a general visitor; and
(iii) has, or was last granted, entry clearance, leave to enter or leave to remain as a general visitor or as a child visitor.
Extension of stay as a general visitor
45. An extension of stay as a general visitor may be granted, subject to a condition prohibiting employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 44 is met.
Refusal of extension of stay as a general visitor
46. An extension of stay as a general visitor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 44 is met.”.
28. For paragraph 46A, substitute:
“Requirements for leave to enter as a child visitor
46A The requirements to be met by a person seeking leave to enter the United Kingdom as a child visitor are that he:
(i) is genuinely seeking entry as a child visitor for a limited period as stated by him not exceeding 6 months; and
(ii) meets the requirements of paragraph 41(ii)-(iv), (vi), (vii) and (ix)-(xii); and
(iii) is under the age of 18; and
(iv) can demonstrate that suitable arrangements have been made for his travel to, and reception and care in the United Kingdom; and
(v) has a parent or guardian in his home country or country of habitual residence who is responsible for his care; and
(vi) if a visa national:
(a) holds a valid United Kingdom entry clearance for entry as an accompanied child visitor and is travelling in the company of the adult identified on his entry clearance, who is on the same occasion being admitted to the United Kingdom; or
(b) holds a valid United Kingdom entry clearance for entry as an unaccompanied child visitor; and
(vii) if he has been accepted for a course of study, this is to be provided by an organisation which is included on the “Register of Education and Training Providers”, and which is outside the maintained sector.”.
29. At the end of paragraph 46D(i), insert:
“and (ix)-(xii)”.

30. At the end of paragraph 46D(v) substitute “.” for “; and”.
31. After paragraph 46D(v), insert:
“ (vi) has, or was last granted, entry clearance, leave to enter or leave to remain as a child visitor”.
32. After paragraph 46F, insert:

“Requirements for leave to enter as a Business Visitor

46G The requirements to be met by a person seeking leave to enter the United Kingdom as a business visitor are that he:

- (i) is genuinely seeking entry as a Business Visitor for a limited period as stated by him:
 - (a) not exceeding 6 months; or
 - (b) not exceeding 12 months if seeking entry as an Academic Visitor
- (ii) meets the requirements of paragraphs 41(ii)-(viii) and (x)-(xii)
- (iii) intends to do one or more of the following during his visit:
 - (a) to carry out a “Permissible Activity” as defined in paragraph 6;
 - (b) to take part in a location shoot as a member of a film crew;
 - (c) to represent overseas news media including as a journalist, correspondent, producer or cameraman provided he is employed or paid by an overseas company and is gathering information for an overseas publication;
 - (d) to act as an Academic Visitor but only if he has been working as an academic in an institution of higher education overseas, or in the field of their academic expertise immediately prior to seeking entry;
 - (e) to act as a Visiting Professor;
 - (f) to be a secondee from an overseas company which has a contract with a UK company, provided that he is paid by the overseas company;
 - (g) to undertake some preaching or pastoral work as a religious worker, provided his base is abroad and he is not taking up an office, post or appointment;
 - (h) to act as an adviser, consultant, trainer or trouble shooter employed abroad by the same company to which the client firm in the UK belongs, provided this does not amount to employment paid or unpaid for the UK branch;
 - (i) to undertake specific, one-off training in techniques and work practices used in the UK, provided this is not on-the-job training.

Leave to enter as a Business Visitor

46H A person seeking leave to enter to the United Kingdom as a Business Visitor may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 46G is met. A person seeking leave to enter the United Kingdom as an Academic Visitor who does not have entry clearance may, if otherwise eligible, be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 46G are met. An Academic Visitor who has entry clearance may be admitted for up to 12 months subject to a condition prohibiting employment.

Refusal of leave to enter as a Business Visitor

46I Leave to enter as a Business Visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 46G are met.

Requirements for an extension of stay as a Business Visitor

46J Twelve months is the maximum permitted leave which may be granted to an Academic Visitor and six months is the maximum that may be granted to any other form of Business Visitor. The requirements for an extension of stay as a Business Visitor are that the applicant:

- (i) meets the requirements of paragraph 46G(ii)-(iii); and
- (ii) if he is a Business Visitor other than an Academic Visitor, has not already spent, or would not as a result of an extension of stay spend, more than 6 months in total in the United Kingdom as a Business Visitor; and
- (iii) if he is an Academic Visitor, has not already spent, or would not as a result of an extension of stay spend, more than 12 months in total in the United Kingdom as a Business Visitor; and
- (iv) has, or was last granted, entry clearance, leave to enter or leave to remain as a Business Visitor.

Extension of stay as a Business Visitor

46K An extension of stay as a Business Visitor may be granted, subject to a condition prohibiting employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 46J is met.

Refusal of extension of stay as a Business Visitor

46L An extension of stay as a Business Visitor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 46J is met.

Sports Visitors**Requirements for leave to enter as a Sports Visitor**

46M The requirements to be met by a person seeking leave to enter the United Kingdom as a Sports Visitor are that he:

- (i) is genuinely seeking entry as a Sports Visitor for a limited period as stated by him, not exceeding six months; and
- (ii) meets the requirements of paragraphs 41(ii)-(viii) and (x)-(xii); and
- (iii) intends to do one or more of the following during his visit:
 - a. To take part in a particular sporting event as defined in guidance published by the United Kingdom Border Agency, tournament or series of events;
 - b. To take part in a specific one off charity sporting event, provided no payment is received other than for travelling and other expenses;
 - c. To join, as an Amateur, a wholly or predominantly amateur team provided no payment is received other than for board and lodging and reasonable expenses;
 - d. To serve as a member of the technical or personal staff, or as an official, attending the same event as a visiting sportsman coming for one or more of the purposes listed in (a), (b) or (c).

Leave to enter as a Sports Visitor

46N A person seeking leave to enter to the United Kingdom as a Sports Visitor may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 46M is met.

Refusal of leave to enter as a Sports Visitor

46O Leave to enter as a Sports Visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 46M is met.

Requirements for an extension of stay as a Sports Visitor

46P Six months is the maximum permitted leave which may be granted to a Sports Visitor. The requirements for an extension of stay as a sports visitor are that the applicant:

- (i) meets the requirements of paragraph 46M(ii)-(iii); and
- (ii) has not already spent, or would not as a result of an extension of stay spend, more than 6 months in total in the United Kingdom as a Sports Visitor; and
- (iii) has, or was last granted, entry clearance, leave to enter or leave to remain as a Sports Visitor.

Extension of stay as a Sports Visitor

46Q An extension of stay as a Sports Visitor may be granted, subject to a condition prohibiting employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 46P is met.

Refusal of extension of stay as a Sports Visitor

46R An extension of stay as a Sports Visitor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 46P is met.

Entertainer Visitors**Requirements for leave to enter as an Entertainer Visitor**

46S The requirements to be met by a person seeking leave to enter the United Kingdom as an Entertainer Visitor are that he:

- (i) is genuinely seeking entry as an Entertainer Visitor for a limited period as stated by him, not exceeding six months and
- (ii) meets the requirements of paragraphs 41(ii)-(viii) and (x)-(xii) and
- (iii) intends to do one or more of the following during his visit:
 - a. to take part as a professional entertainer in one or more music competitions; and/or

- b. to fulfil one or more specific engagements as either an individual Amateur entertainer or as an Amateur group; and/or
- c. to take part, as an Amateur or professional entertainer, in a cultural event (or one or more of such events) that appears in the list of events to which this provision applies that is published in guidance issued by the United Kingdom Border Agency; and/or
- d. serve as a member of the technical or personal staff, or of the production team, of an entertainer coming for one or more of the purposes listed in (a), (b), or (c).

Leave to enter as an Entertainer Visitor

46T A person seeking leave to enter to the United Kingdom as an Entertainer Visitor may be admitted for a period not exceeding 6 months, subject to a condition prohibiting employment, provided the Immigration Officer is satisfied that each of the requirements of paragraph 46S is met.

Refusal of leave to enter as an Entertainer Visitor

46U Leave to enter as an Entertainer Visitor is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 46S is met.

Requirements for an extension of stay as an Entertainer Visitor

46V Six months is the maximum permitted leave which may be granted to an Entertainer Visitor. The requirements for an extension of stay as an Entertainer Visitor are that the applicant:

- (i) meets the requirements of paragraph 46S(ii)-(iii); and
- (ii) has not already spent, or would not as a result of an extension of stay spend, more than 6 months in total in the United Kingdom as an Entertainer Visitor; and
- (iii) has, or was last granted, entry clearance, leave to enter or leave to remain as an Entertainer Visitor.

Extension of stay as an Entertainer Visitor

46W An extension of stay as an Entertainer Visitor may be granted, subject to a condition prohibiting employment, provided the Secretary of State is satisfied that each of the requirements of paragraph 46V is met.

Refusal of extension of stay as an Entertainer Visitor

46X An extension of stay as an Entertainer Visitor is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 46V is met.”.

- 33. Replace paragraph 51(i) with:
“(i) meets the requirements set out in paragraph 41 (iii)-(vii), (ix)-(x) and (xii) for entry as a general visitor; and”.
- 34. Replace paragraph 54(i) with:
“(i) meets the requirements set out in paragraph 41(iii)-(vii), (ix)-(x) and (xii) and paragraph 51 (ii)-(v); and”.
- 35. Replace paragraph 56A(i) with:
“(i) the parent meets the requirements set out in paragraph (ii)-(xii); and”.
- 36. For paragraph 56D(i) substitute “visitor” for “general visitor”.
- 37. Replace paragraph 56G(i) with:
“meets the requirements set out in paragraph 41(ii)-(xii); and”.
- 38. In paragraph 70(vi)(b), for “a work permit holder in accordance with paragraphs 128 to 135 of these Rules” substitute “a Tier 2 Migrant”.
- 39. Delete paragraphs:
 - (a) 69M to 69O, save in so far as they are relevant to paragraph 69P,
 - (b) 69P (i)-(iii),
 - (c) 75A(iv)(c), 75D(iv)(c), 75G(iv)(b) and 75K(iv)(b),
 - (d) 88 to 94,
 - (e) 95 to 97,
 - (f) 101 to 103,
 - (g) 110 to 115
 - (h) 116-121,
 - (i) 136 to 141, save in so far as they are relevant to paragraph 142 and 143,

- (j) 152 to 157, save in so far as they are relevant to paragraphs 158 and 159,
 - (k) 160 to 166, save in so far as they are relevant to paragraphs 167 and 168,
 - (l) 170 to 175, save in so far as they are relevant to paragraph 176 and 177,
 - (m) 177A to 177G,
 - (n) 178 to 183, save in so far as they are relevant to paragraph 184 and 185,
 - (o) 263 to 265, and
 - (p) 266A-266E.
40. Above paragraph 245AA, delete the heading “Tier 1 (General) Migrants”.
 41. In paragraph 245AA(a), delete “Tier 1 of”.
 42. Above paragraph 245A, insert the heading “Tier 1 (General) Migrants”.
 43. In paragraph 245C(d), after “under” insert “paragraphs 1 to 3 of”.
 44. In paragraph 245C(e), after “under” insert “paragraphs 1 to 2 of”.
 45. At the end of paragraph 245C(f)(xvi) delete “or”.
 46. At the end of paragraph 245(C)(f)(xvii) for“.” substitute “, or”.
 47. After paragraph 245C(f)(xvii) insert:
“(xviii) as a Tier 2 Migrant.”.
 48. In paragraph 245C(g), after “Dentist” insert “Student Nurse, Student Re-Sitting an Examination, or as a Student Writing-Up a Thesis”.
 49. In paragraph 245C(g), before “written consent” insert “unconditional”.
 50. In paragraph 245C(g), after “to the application” insert “and must provide the specified documents to show that this consent has been obtained”.
 51. Delete paragraph 245F(d).
 52. In paragraph 245J(c), after “under” insert “paragraphs 1 to 3 of”.
 53. In paragraph 245J(d), after “under” insert “paragraphs 1 to 2 of”.
 54. After paragraph 245J(d) insert:
“(e) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist, a Student Nurse, a Student Writing up a Thesis or as a Student Re-Sitting an Examination and:
(i) is currently being sponsored by a government or international scholarship agency, or
(ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less
must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.”.
 55. In paragraph 245L(c), after “under” insert “paragraphs 1 to 3 of”.
 56. In paragraph 245L(d), after “under” insert “paragraphs 1 to 2 of”.
 57. At the end of paragraph 245L(e)(xvii) delete “or”.
 58. At the end of paragraph 245L(e)(xviii) for“.” substitute “, or”.
 59. After paragraph 245L(e)(xviii) insert:
“(xix) as a Tier 2 Migrant.”.
 60. In paragraph 245L(f), after “Dentist” insert “ Student Nurse, Student Re-Sitting an Examination, or as a Student Writing-Up a Thesis”.
 61. In paragraph 245L(f), before “written consent” insert “unconditional”.
 62. In paragraph 245L(f), after “to the application” insert “and must provide the specified documents to show that this requirement has been met”.
 63. For the heading to paragraph 245M, substitute “Period, conditions and curtailment of grant”.
 64. After paragraph 245M(b) insert:
“(c) Without prejudice to the grounds for curtailment in paragraph 323 of these Rules, leave to enter or remain granted to a Tier 1 (Entrepreneur) Migrant may be curtailed if, within 3 months of the date specified in paragraph (d), the applicant has not done one or more of the following things:
(i) registered with HM Revenue and Customs as self-employed,
(ii) registered a new business in which he is a director, or
(iii) registered as a director of an existing business.

- (d) The date referred to in paragraph (c) is:
- (i) the date of the applicant's entry to the UK, in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is evidence to establish the applicant's date of entry to the UK,
 - (ii) the date of the grant of entry clearance to the applicant, in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is no evidence to establish the applicant's date of entry to the UK, or
 - (iii) the date of the grant of leave to remain to the applicant, in any other case.
- (e) Paragraph 245M(c) does not apply where the applicant's last grant of leave prior to the grant of the leave that he currently has was as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.”.
65. After paragraph 245Q(b) insert:
- “(c) An applicant who has, or was last granted, leave as a Student or a Postgraduate Doctor or Dentist, a Student Nurse, or as a Student Re-Sitting an Examination or a Student Writing up a Thesis and:
- (i) is currently being sponsored by a government or international scholarship agency, or
 - (ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less
- must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.”.
66. At the end of paragraph 245S(c)(xiii) delete “or”.
67. At the end of paragraph 245S(c)(xiv) for “.” substitute “, or”.
68. After paragraph 245S(c)(xiv) insert:
- “(xv) as a Tier 2 Migrant.”.
69. In paragraph 245S(d), after “Student” insert “, Student Nurse, Student Re-Sitting an Examination or Student Writing-Up a Thesis”.
70. In paragraph 245S(d), before “written consent” insert “unconditional”.
71. In paragraph 245S(d), after “to the application” insert “and must provide the specified documents to show that this requirement has been met”.
72. For the heading to paragraph 245T substitute “Period, conditions and curtailment of grant”.
73. After paragraph 245T(b) insert:
- “(c) Without prejudice to the grounds for curtailment in paragraph 323 of these Rules, leave to enter or remain as a Tier 1 (Investor) Migrant may be curtailed if within 3 months of the date specified in paragraph (d), the applicant has not invested, or had invested on his behalf, at least £750,000 of his capital in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies other than those principally engaged in property investment.
- (d) The date referred to in paragraph (c) is:
- (i) the date of the applicant's entry to the UK, in the case of an applicant granted entry clearance as a Tier 1 (Investor) Migrant where there is evidence to establish the applicant's date of entry to the UK,
 - (ii) the date of the grant of entry clearance to the applicant, in the case of an applicant granted entry clearance as a Tier 1 (Investor) Migrant where there is no evidence to establish the applicant's date of entry to the UK, or
 - (iii) the date of the grant of leave to remain to the applicant, in any other case.
- (e) Paragraph 245T(c) does not apply where the applicant's last grant of leave prior to the grant of the leave that he currently has was as a Tier 1 (Investor) Migrant or as an Investor.”.
74. In paragraph 245X(b), after “Migrant” insert “, as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme), or as a Participant in the Fresh Talent: Working in Scotland Scheme”.
75. In paragraph 245X(d), after “under” insert “paragraphs 1 to 3 of”.
76. In paragraph 245X(e), after “under” insert “paragraphs 1 to 2 of”.
77. After paragraph 245X(e) insert:
- “(f) If:
- (i) the studies that led to the qualification for which the applicant obtains points under paragraphs 51 to 58 of Appendix A were sponsored by a Government or international scholarship agency, and
 - (ii) those studies came to an end 12 months ago or less

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.”.

78. In paragraph 245Z(d), after “under” insert “paragraphs 1 to 3 of”.

79. In paragraph 245Z(e), after “under” insert “paragraphs 1 to 2 of”.

80. For paragraph 245Z(h) substitute:

“(h) If:

(i) the studies that led to the qualification for which the applicant obtains points under paragraphs 51 to 58 of Appendix A were sponsored by a Government or international scholarship agency, and

(ii) those studies came to an end 12 months ago or less

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.”.

81. After paragraph 245ZA insert:

“TIER 2 MIGRANTS

245ZB. Purpose of this route and definitions

(a) This route enables UK employers to recruit workers from outside the EEA to fill a particular vacancy that cannot be filled by a British or EEA worker.

(b) In paragraphs 245ZB to 245ZL and paragraphs 59 to 100 of Appendix A:

“employment” includes unpaid employment,

“length of the period of engagement” is the period beginning with the employment start date as recorded on the Certificate of Sponsorship Checking Service entry which relates to the Certificate of Sponsorship reference number for which the migrant was awarded points under paragraphs 59 to 100 of Appendix A and ending on the employment end date as recorded in the same entry, and

“working for the same employer” includes working for the same business or concern as at the time of the earlier grant of leave if that business or concern has, since that date, merged or been taken over by another entity.

245ZC. Entry clearance

All migrants arriving in the UK and wishing to enter as a Tier 2 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.

245ZD. Requirements for entry clearance

To qualify for entry clearance as a Tier 2 Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance 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.

(b) If applying as a Tier 2 (General) Migrant or as a Tier 2 (Intra-Company Transfer) Migrant, the applicant must have a minimum of 50 points under paragraphs 59 to 84 of Appendix A.

(c) If applying as a Tier 2 (Minister of Religion) Migrant, the applicant must have a minimum of 50 points under paragraphs 85 to 92 of Appendix A.

(d) If applying as a Tier 2 (Sportsperson) Migrant, the applicant must have a minimum of 50 points under paragraphs 93 to 100 of Appendix A.

(e) Unless the applicant is applying as a Tier 2 (Intra-Company Transfer) Migrant, the applicant must have a minimum of 10 points under paragraphs 4 to 6 of Appendix B.

(f) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.

(g) An applicant who has, or was last granted, leave as a Student, a Student Nurse, a Student Re-Sitting an Examination, a Student Writing up a Thesis 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 unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

(h) The applicant must be at least 16 years old.

(i) If the Sponsor is a limited company, the applicant must not own more than 10% of its shares.

245ZE. Period and conditions of grant

(a) Entry clearance will be granted for:

- (i) a period equal to the length of the period of engagement plus 1 month, or
- (ii) a period of 3 years and 1 month

whichever is the shorter.

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

(c) Entry clearance will be subject to the following conditions:

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by paragraph 326 of these Rules, and
- (iii) no employment except:

- (1) working for the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do,
- (2) supplementary employment, and
- (3) voluntary work.

(e) (i) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 59 to 84 of Appendix A including points under the intra-company transfer provisions in Table 10 of that Appendix shall be granted entry clearance as a Tier 2 (Intra-Company Transfer) Migrant.

(ii) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 59 to 84 of Appendix A but who do not obtain points under the intra-company transfer provisions in Table 10 of that Appendix shall be granted entry clearance as a Tier 2 (General) Migrant.

(iii) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 85 to 92 of Appendix A shall be granted entry clearance as a Tier 2 (Minister of Religion) Migrant.

(iv) Applicants who meet the requirements for entry clearance and who obtain points under paragraphs 93 to 100 of Appendix A shall be granted entry clearance as a Tier 2 (Sportsperson) Migrant.

245ZF. Requirements for leave to remain

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

Requirements:

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

(b) If the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant:

(i) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as either:

- (1) a Tier 2 (Intra-Company Transfer) Migrant, or
 - (2) as a Qualifying Work Permit Holder, provided that the work permit was granted because the applicant was the subject of an intra-company transfer,
- and

(ii) the applicant must still be working for the same employer as he was at the time of that earlier grant of leave.

(c) If the applicant is applying for leave to remain as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:

- (i) as a Tier 1 Migrant,
- (ii) as a Tier 2 Migrant,
- (iii) as a Highly Skilled Migrant,
- (iv) as an Innovator,
- (v) as a Jewish Agency Employee,
- (vi) as a Member of the Operational Ground Staff of an Overseas-owned Airline,
- (vii) as a Minister of Religion, Missionary or Member of a Religious Order,
- (viii) as an Overseas Qualified Nurse or Midwife,
- (ix) as a Participant in the Fresh Talent: Working in Scotland Scheme,

- (x) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),
- (xi) as a Person Writing Up a Thesis,
- (xii) as a Postgraduate Doctor or Dentist,
- (xiii) as a Qualifying Work Permit Holder,
- (xiv) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
- (xv) as a Student,
- (xvi) as a Student Re-Sitting an Examination,
- (xvii) as a Student Nurse, or
- (xviii) as a Student Union Sabbatical Officer.

(d) An applicant who has, or was last granted, leave as a Student, a Student Nurse, a Student Re-Sitting an Examination, a Student Writing up a Thesis 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 unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

(e) If applying as a Tier 2 (General) Migrant or as a Tier 2 (Intra-Company Transfer) Migrant, the applicant must have a minimum of 50 points under paragraphs 59 to 84 of Appendix A.

(f) If applying as a Tier 2 (Minister of Religion) Migrant, the applicant must have a minimum of 50 points under paragraphs 85 to 92 of Appendix A.

(g) If applying as a Tier 2 (Sportsperson) Migrant, the applicant must have a minimum of 50 points under paragraphs 93 to 100 of Appendix A.

(h) The applicant must have a minimum of 10 points under paragraphs 4 to 6 of Appendix B, unless the applicant:

- (i) is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, and
- (ii) is not seeking a grant of leave to remain that would extend his total stay in this category beyond 3 years.

(i) The applicant must have a minimum of 10 points under paragraphs 4 to 5 of Appendix C.

(j) The applicant must be at least 16 years old.

(k) If the Sponsor is a limited company, the applicant must not own more than 10% of its shares.

245ZG. Period and conditions of grant

(a) In the cases set out in paragraph (b), leave to remain will be granted for:

- (i) a period equal the length of the period of engagement, or
- (ii) a period equal to 5 years less X, where X is the period of time, beginning with the date on which the applicant was last granted entry clearance or leave to enter, that the applicant has already spent in the UK with entry clearance, leave to enter or remain in any combination of the categories set out in paragraph (b)

whichever is the shorter.

(b) The cases referred to in paragraph (a) are those where the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as:

- (i) a Jewish Agency Employee, provided he is still working for the same employer,
- (ii) a Member of the Operational Ground Staff of an Overseas-owned Airline, provided he is still working for the same employer,
- (iii) a Minister of Religion, Missionary or Member of a Religious Order, provided he is still working for the same employer,
- (iv) a Qualifying Work Permit Holder, provided he is still working for the same employer,
- (v) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, provided he is still working for the same employer,
- (vi) a Tier 2 (Minister of Religion) Migrant, provided:

- (1) he previously had leave as a Minister of Religion, Missionary or Member of a Religious Order, and received his last grant of entry clearance or leave to enter in one of those categories,
- (2) at some time during that period of leave as a Minister of Religion, Missionary or Member of a Religious Order he was granted leave to remain as a Tier 2 (Minister of Religion) Migrant, and

(3) he is still working for the same employer as he was when he was last in the UK with leave as a Minister of Religion, Missionary or Member of a Religious Order,

(vii) a Tier 2 (Sportsperson) Migrant, provided:

(1) he previously had leave as a Work Permit Holder and received his last grant of entry clearance or leave to enter in that category less than 5 years prior to this application for leave to remain,

(2) at some time during that period of leave as a Work Permit Holder he was granted leave to remain as a Tier 2 (Sportsperson) Migrant, and

(3) he is still working for the same employer as he was when he was last in the UK with leave as a Work Permit Holder,

(viii) a Tier 2 (General) or Tier 2 (Intra-Company Transfer) Migrant, provided:

(1) in this application for leave to remain, he has been awarded points under the transitional arrangements provisions in Table 11 of Appendix A,

(2) his last grant of leave was as a Qualifying Work Permit Holder, a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Minister of Religion, Missionary or Member of a Religious Order, a Member of the Operational Ground Staff of an Overseas-owned Airline, a Jewish Agency Employee, a Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant, and

(3) he received his last grant of entry clearance or leave to enter in that category less than 5 years prior to this application for leave to remain.

(c) Where:

(i) paragraph (a) does not apply,

(ii) the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 2 Migrant, and

(iii) the applicant is working for the same employer as he was at the time of that earlier grant

leave to remain will be granted for a period equal to the length of the period of engagement plus 14 days, or for a period of 2 years, whichever is the shorter.

(d) In all other cases, leave to remain will be granted for:

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

(ii) 3 years

whichever is the shorter.

(e) Leave to remain will be granted subject to the following conditions:

(i) no recourse to public funds,

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

(iii) no employment except:

(1) working for the Sponsor in the employment that the Certificate of Sponsorship Checking Service entry records that the migrant is being sponsored to do,

(2) supplementary employment, and

(3) voluntary work.

(f) (i) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 59 to 84 of Appendix A including points under the intra-company transfer provisions in Table 10 of that Appendix shall be granted leave to remain as a Tier 2 (Intra-Company Transfer) Migrant.

(ii) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 59 to 84 of Appendix A but who do not obtain points under the intra-company transfer provisions in Table 10 of that Appendix shall be granted leave to remain as a Tier 2 (General) Migrant.

(iii) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 85 to 92 of Appendix A shall be granted leave to remain as a Tier 2 (Minister of Religion) Migrant.

(iv) Applicants who meet the requirements for leave to remain and who obtain points under paragraphs 93 to 100 of Appendix A shall be granted leave to remain as a Tier 2 (Sportsperson) Migrant.

245ZH. Requirements for indefinite leave to remain

To qualify for indefinite leave to remain as a Tier 2 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-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 2 Migrant, and the rest may be made up of leave:
 - (i) as a Member of the Operational Ground Staff of an Overseas-owned Airline,
 - (ii) as a Minister of Religion, Missionary or Member of a Religious Order,
 - (iii) as a Qualifying Work Permit Holder,
 - (iv) as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
 - (v) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant, or
 - (vi) as a Tier 2 Migrant.
- (c) Subject to paragraph (d), the Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing that he still requires the applicant for employment.
- (d) The requirement in paragraph (c) does not apply if that Sponsor has been issued with a further Certificate of Sponsorship in respect of the applicant that would result in the applicant obtaining the necessary points under Appendix A if the applicant were to make an application for leave to remain under paragraph 245ZF.
- (e) 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.

TIER 5 (YOUTH MOBILITY SCHEME) TEMPORARY MIGRANTS

245ZI. Purpose of this route

This route is for sponsored young people from participating countries who wish to live and work temporarily in the UK.

245ZJ. Entry clearance

All migrants arriving in the UK and wishing to enter as a Tier 5 (Youth Mobility Scheme) Temporary 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.

245ZK. Requirements for entry clearance

To qualify for entry clearance as a Tier 5 (Youth Mobility Scheme) Temporary Migrant, an applicant must meet the requirements listed below. However, whether or not the requirements listed below are met, if a citizen of a country listed in Appendix G makes an application for entry clearance which, if granted, would mean that the annual allocation of places under this route for citizens of that country would be exceeded, the application will be refused. The applicant will also be refused if the requirements listed below are not met.

Requirements:

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) The applicant must be:
 - (i) a citizen of a country listed in Appendix G to these Rules, or
 - (ii) a British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas), as defined by the British Nationality Act 1981and must provide the specified documents to show that this requirement has been met.
- (c) The applicant must have a minimum of 40 points under paragraphs 101 to 104 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 6 to 7 of Appendix C.
- (e) The applicant must have no children under the age of 18 who are either living with him or for whom he is financially responsible.
- (f) The applicant must not previously have spent time in the UK as a Working Holidaymaker or a Tier 5 (Youth Mobility Scheme) Temporary Migrant.

245ZL. Period and conditions of grant

Entry clearance will be granted for a period of 2 years subject to the following conditions:

- (a) no recourse to public funds,
- (b) registration with the police, if this is required by paragraph 326 of these Rules,
- (c) no employment as a professional sportsperson (including as a sports coach), or as a Doctor in Training, and
- (d) no self employment, except where the following conditions are met:

- (i) the migrant has no premises which he owns, other than his home, from which he carries out his business,
- (ii) the total value of any equipment used in the business does not exceed £5,000, and
- (iii) the migrant has no employees.

TIER 5 (TEMPORARY WORKER) MIGRANTS

245ZM. Purpose of this route and definitions

(a) This route is for certain types of temporary worker whose entry helps to satisfy cultural, charitable, religious or international objectives.

(b) For the purposes of paragraphs 245ZM to 245ZR and paragraphs 105 to 111 of Appendix A:

a migrant has “consecutive engagements” if:

- (i) more than one Certificate of Sponsorship reference number has been allocated in respect of the migrant,
- (ii) there is no gap of more than 14 days between any of the periods of engagement, and
- (iii) all the Certificate of Sponsorship Checking Service references record that the migrant is being sponsored in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route.

“Period of engagement” means a period beginning with the employment start date as recorded on the Certificate of Sponsorship Checking Service entry which relates to the Certificate of Sponsorship reference number for which the migrant was awarded points under paragraphs 105 to 111 of Appendix A, and ending on the employment end date as recorded in the same entry.

245ZN. Entry clearance

(a) Subject to paragraph (b), all migrants arriving in the UK and wishing to enter as a Tier 5 (Temporary Worker) 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.

(b) A migrant arriving in the UK and wishing to enter as a Tier 5 (Temporary Worker) Migrant who does not have a valid entry clearance will not be refused entry if the following conditions are met:

- (i) the migrant is not a visa national,
- (ii) the Certificate of Sponsorship reference number provided by the migrant leading to points being obtained under Appendix A links to an entry in the Certificate of Sponsorship Checking Service recording that their Sponsor has sponsored them in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route,
- (iii) if the migrant has consecutive engagements, the total length of all the periods of engagement, together with any gap between those engagements, is 3 months or less,
- (iv) if the migrant does not have consecutive engagements, the total length of the period of engagement is 3 months or less, and
- (v) the migrant meets the requirements in paragraph 245ZO below.

245ZO. Requirements for entry clearance or leave to enter

To qualify for entry clearance or, as the case may be, leave to enter, as a Tier 5 (Temporary Worker) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance 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.
- (b) The applicant must have a minimum of 30 points under paragraphs 105 to 111 of Appendix A.
- (c) The applicant must have a minimum of 10 points under paragraphs 8 to 9 of Appendix C.

245ZP. Period and conditions of grant

(a) Where paragraph 245ZN(b) applies and the applicant has consecutive engagements, leave to enter will be granted for:

- (i) a period commencing not more than 14 days before the beginning of the first period of engagement and ending 14 days after the end of the last period of engagement, or
- (ii) 3 months

whichever is the shorter.

(b) Where paragraph 245ZN(b) applies and the applicant does not have consecutive engagements, leave to enter will be granted for:

- (i) a period commencing not more than 14 days before the beginning of the period of engagement and ending 14 days after the end of that period of engagement, or

- (ii) 3 months

whichever is the shorter.

(c) Where paragraph 255ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored in the creative and sporting or charity workers sub-category of the Tier 5 (Temporary Worker) Migrant route, leave to enter will be granted for:

- (i) a period commencing 14 days before the beginning of the period of engagement (or of the first period of engagement, where the applicant has consecutive engagements) and ending 14 days after the end of that period of engagement (or of the last period of engagement, where the applicant has consecutive engagements), or

- (ii) 12 months

whichever of (i) or (ii) is the shorter.

(d) Where paragraph 255ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored in the religious workers, government authorised exchange or international agreement subcategory of the Tier 5 (Temporary Worker) Migrant route, leave to enter will be granted for:

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

- (ii) 2 years

whichever is the shorter.

(e) Leave to enter and entry clearance will be granted subject to the following conditions:

- (i) no recourse to public funds,

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

- (iii) no employment except:

- (1) unless paragraph (2) applies, working for the person who for the time being is the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do for that Sponsor,

- (2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the government authorised exchange subcategory of Tier 5 (Temporary Workers), working for any person for whom the Sponsor directs him to work, provided that work is in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, and

- (3) supplementary employment.

245ZQ. Requirements for leave to remain

To qualify for leave to remain as a Tier 5 (Temporary Worker) Migrant under this rule, an applicant must meet the requirements listed below. Subject to paragraph 245ZR(a), 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, or have last been granted, entry clearance, leave to enter or leave to remain:

- (i) as a Tier 5 (Temporary Worker) Migrant, or

- (ii) as a Sports Visitor or Entertainer Visitor, provided:

- (1) the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application shows that he is being sponsored in the creative and sporting subcategory; and

- (2) the Certificate of Sponsorship reference number was allocated to the applicant before he entered the UK as a Sports Visitor or Entertainer Visitor.

(c) The applicant must have a minimum of 30 points under paragraphs 105 to 111 of Appendix A.

(d) The applicant must have a minimum of 10 points under paragraphs 8 to 9 of Appendix C.

(e) The Certificate of Sponsorship Checking Service entry to which the Certificate of Sponsorship reference number for which points under Appendix A were awarded relates must record that the applicant is being sponsored in the same subcategory of the Tier 5 (Temporary Worker) Migrant route as the one in which he was being sponsored when he was last granted entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant.

245ZR. Period and conditions of grant

(a) If any calculation of period of leave comes to zero or a negative number, leave to remain will be refused.

(b) Subject to paragraphs (c) to (f) below, leave to remain will be granted for:

(i) the length of the period of engagement, as recorded in the Certificate of Sponsorship Checking Service entry, plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement) or

(ii) the difference between the period that the applicant has already spent in the UK since his last grant of entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant and:

(1) 12 months, if he is being sponsored in the creative and sporting or charity worker subcategories, or

(2) 2 years, if he is being sponsored in the religious workers, government authorised exchange or international agreement subcategories,

whichever of (i) or (ii) is the shorter.

(c) Where the provisions in paragraph 245ZQ(b)(ii) apply, the migrant will be granted leave to remain for:

(i) the period of engagement plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement), or

(ii) 12 months

whichever of (i) or (ii) is the shorter.

(d) Where the Certificate of Sponsorship Checking Service reference records that the migrant is being sponsored in the international agreement subcategory of the Tier 5 (Temporary Worker) Migrant route as an overseas government employee or a private servant in a diplomatic household, leave to remain will be granted for:

(i) the period of engagement plus 14 days, or

(ii) 12 months,

whichever of (i) or (ii) is the shorter, unless at the date of the application for leave to remain the applicant has spent more than 5 years continuously in the UK with leave as a Tier 5 (Temporary Worker) Migrant, in which case leave to remain will be granted for:

(iii) the period of engagement plus 14 days, or

(iv) a period equal to 6 years less X, where X is the period of time, beginning with the date on which the applicant was last granted entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant, that the applicant has already spent in the UK as a Tier 5 (Temporary Worker) Migrant

whichever of (iii) or (iv) is the shorter.

(e) Where:

(i) the Certificate of Sponsorship Checking Service reference number records that the applicant is being sponsored in the creative and sporting subcategory of the Tier 5 (Temporary Worker) Migrant route as a creative worker, and

(ii) the Sponsor is the Sponsor who sponsored the applicant when he received his last grant of leave

leave to remain will be granted for the period set out in paragraph (f) below.

(f) Where the conditions in paragraph (e) above are met, leave to remain will be granted for:

(i) the period of engagement plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement), or

(ii) 12 months

whichever of (i) or (ii) is the shorter, unless the applicant has spent more than 1 year continuously in the UK with leave as a Tier 5 (Temporary Worker) Migrant, in which case leave to remain will be granted for:

(iii) the period of engagement plus 14 days (or, where the applicant has consecutive engagements, a period beginning on the first day of the first period of engagement and ending 14 days after the last day of the last period of engagement), or

(iv) a period equal to 2 years less X, where X is the period of time, beginning with the date on which the applicant was last granted entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant, that the applicant has already spent in the UK as a Tier 5 (Temporary Worker) Migrant

whichever of (iii) or (iv) is the shorter.

(g) Leave to remain will be granted subject to the following conditions:

(i) no recourse to public funds,

- (ii) registration with the police if this is required by paragraph 326 of these Rules, and
 - (iii) no employment except:
 - (1) unless paragraph (2) applies, working for the person who for the time being is the Sponsor in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do for that Sponsor,
 - (2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the government authorised exchange subcategory of Tier 5 (Temporary Worker) route, working for any person for whom the Sponsor directs him to work, provided that work is in the employment that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, and
 - (3) supplementary employment.”.
82. For paragraph 266, substitute:
 “266. The requirements for an extension of stay as a retired person of independent means are that the applicant:
- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a retired person of independent means; and
 - (ii) meets the following requirements:
 - (a) has under his control and disposable in the United Kingdom an income of his own of not less than £25,000 per annum; and
 - (b) is able and willing to maintain and accommodate himself and any dependants indefinitely in the United Kingdom from his own resources with no assistance from any other person and without taking employment or having recourse to public funds; and
 - (c) can demonstrate a close connection with the United Kingdom; and
 - (iii) has made the United Kingdom his main home.”.
83. For paragraph 267 substitute:
 “267. An extension of stay as a retired person of independent means, with a prohibition on the taking of employment, may be granted so as to bring the person’s stay in this category up to a maximum of 5 years in aggregate, provided the Secretary of State is satisfied that each of the requirements of paragraph 266 is met.”.
84. For paragraph 268 substitute:
 “268. An extension of stay as a retired person of independent means is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 266 is met.”.
85. In paragraph 277, delete “18” and substitute “21”.
86. In paragraph 289AA, delete “18” and substitute “21”.
87. In paragraph 295AA, delete “18” and substitute “21”.
88. For the headings to paragraph 319A, substitute:
**“Family members of Relevant Points Based System Migrants
 Partners of Relevant Points Based System Migrants”.**
89. Immediately above paragraph 319A insert:
 “319AA In paragraphs 319A to 319K and Appendix E “Relevant Points Based System Migrant” means a migrant granted leave as a Tier 1 Migrant, a Tier 2 Migrant or a Tier 5 (Temporary Worker) Migrant.”.
90. In paragraphs 319A to 319J, for each occurrence of “Tier 1 Migrant” substitute “Relevant Points Based System Migrant”.
91. In paragraph 319B, for “All migrants” substitute “(a) Subject to paragraph (b), all migrants”.
92. After paragraph 319B(a) insert:
 “(b) A migrant arriving in the UK, and wishing to enter as a Partner of a Tier 5 (Temporary Worker) Migrant, who does not have a valid entry clearance will not be refused entry if the following conditions are met:
- (i) the migrant wishing to enter as a Partner is not a visa national,
 - (ii) the migrant wishing to enter as a Partner is accompanying an applicant who at the same time is being granted leave to enter under paragraph 245ZN(b), and
 - (iii) the migrant wishing to enter as a Partner meets the requirements of entry clearance in paragraph 319C.”.

93. In paragraph 319G, for “All migrants arriving” substitute “(a) Subject to paragraph (b), all migrants arriving”.
94. After paragraph 319G(a) insert:
“(b) A migrant arriving in the UK and wishing to enter as the child of a Tier 5 (Temporary Worker) Migrant who does not have a valid entry clearance will not be refused entry if the following conditions are met:
(i) the migrant wishing to enter as the child is not a visa national,
(ii) the migrant wishing to enter as the child is accompanying an applicant who at the same time is being granted leave to enter under 245ZN(b), and
(iii) the migrant wishing to enter as the child meets the requirements of entry clearance in paragraph 319H.”.
95. In paragraph 319H(c), after “Migrant” insert “or 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 time being granted, leave to remain as a Relevant Points Based System Migrant”.
96. In paragraph 319K(a), for “Dependant of the Points Based System Policy Guidance” substitute “Points Based System (Dependants) Policy Guidance”.
97. In paragraph 320(7A), after “false documents” insert “or information”.
98. In paragraph 321(i), after “false documents” insert “or information”.
99. In paragraph 322(1A), after “false documents” insert “or information”.
100. After paragraph 323 insert:
“Curtailement of leave or alteration of duration of leave in relation to a Tier 2 Migrant or a Tier 5 Migrant
323A In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 2 Migrant or a Tier 5 (Temporary Worker) Migrant may be curtailed, or its duration altered, if:
(a) the migrant’s Sponsor ceases to have a sponsor licence (for whatever reason),
(b) the migrant’s Sponsor transfers the business for which the migrant works to another person, that person does not have a sponsor licence and that person:
(i) fails to apply for a sponsor licence within 28 days of the date of the transfer of the business,
(ii) applies for a sponsor licence but is refused, or
(iii) applies for a sponsor licence and is granted one, but not in a category that would allow it to issue a Certificate of Sponsorship to the migrant, or
(c) the migrant ceases working for the Sponsor.
101. In paragraph 326(2)(ii), for “private servant in a diplomatic household” substitute “Tier 5 (Temporary Worker) Migrant, provided the Certificate of Sponsorship Checking System reference for which points were awarded records that the applicant is being sponsored as an overseas government employee or a private servant in a diplomatic household.
102. In paragraph 326(2)(iii), for “minister of religion, missionary or member of a religious order” substitute “Tier 2 (Minister of Religion) Migrant”.
103. In Appendix A, after paragraph 1 insert:
“1A. Subject to paragraph 1B, an applicant who has a Master of Business Administration Degree from an institution listed in paragraph 58A of this Appendix, and who provides the specified documents, will be awarded 75 points, provided he:
(a) commenced the course of study that led to that degree on or before 29 June 2008,
(b) applied for entry clearance or leave to remain within 12 months of the date on which he was first notified in writing, by the awarding institution, that the qualification had been awarded, and
(c) provides the specified documents as evidence of the facts in (a) and (b).
1B. Paragraph 1A does not apply to an applicant who is applying for leave to remain and who has, or last had, leave as Highly Skilled Migrant, Tier 1 (General) Migrant, a Writer, Composer or Artist or a Self-Employed lawyer.”.
104. In paragraph 2 of Appendix A, for “Available” substitute “In respect of any applicant to whom paragraph 1A does not apply, available”.
105. In paragraph 16(h) of Appendix A, delete “statutory”.
106. In paragraph 16(i) of Appendix A delete “or”.
107. In paragraph 16(j) of Appendix A, for “.” substitute “, or”.
108. After paragraph 16(j) of Appendix A insert:

“(k) prize money or competition winnings, other than where they are directly related to the applicant’s main profession or occupation.”.

109. In Table 2A of Appendix A:
- (a) between “Kibrati” and “Lesotho” insert “Kosovo”,
 - (b) for “Burma” substitute “Burma (Union of Myanmar)”,
 - (c) for “Taiwan (Republic of China)” substitute “Taiwan”, and
 - (d) for “Laos” substitute “The Lao People’s Democratic Republic”.
110. In the second row of Table 6 of Appendix A, after “the above condition must have been met within 3 months of”, delete “the grant” and insert “his entry to the UK (if he was granted entry clearance as a Tier 1 (Entrepreneur) Migrant and there is evidence to establish his date of arrival to the UK), or the date of the grant of entry clearance (if he was granted entry clearance as a Tier 1 (Entrepreneur) Migrant and there is no evidence to establish his date of arrival to the UK), or, in any other case, the date of the grant of leave to remain”.
111. In paragraph (a) of Table 7 of Appendix A, after “has money of his own” insert “under his control”.
112. In the third row of Table 8 of Appendix A, after “The investment referred to above was made within 3 months of”, delete “obtaining entry clearance, leave to enter or leave to remain” and insert “his entry to the UK (if he was granted entry clearance as a Tier 1 (Investor) Migrant and there is evidence to establish his date of arrival to the UK), or the date of the grant of entry clearance (if he was granted entry clearance as a Tier 1 (Investor) Migrant and there is no evidence to establish his date of arrival to the UK), or, in any other case, the date of the grant of leave to remain”.
113. In Appendix A, after paragraph 58 insert:

“List of institutions to which paragraph 1A of this Appendix applies

58A UK

- Ashridge
- Bradford School of Management/Nimbas
- City University: Cass
- Cranfield School of Management
- London Business School
- Manchester Business School
- University of Cambridge: Judge
- University of Oxford: Said
- University of Strathclyde
- Warwick Business School

USA

- Babson College: Olin
- Boston University School of Management
- Carnegie Mellon University
- Columbia Business School
- Cornell University: Johnson
- Dartmouth College: Tuck
- Duke University: Fuqua
- Emory University: Goizueta
- Georgetown University: McDonough
- Harvard Business School
- MIT: Sloan
- New York University: Stern
- North Western: Kellogg
- Rice University: Jones
- Stanford University
- UC Berkeley: Haas
- UCLA: Anderson

- University of Chicago
- University of Maryland: Smith
- University of North Carolina: Keenan-Flagler
- University of Pennsylvania: Wharton
- University of Rochester: Simon
- University of Southern California: Marshall
- University of Virginia: Darden
- Vanderbilt University: Owen
- Yale’s School of Management

Australia

- Australian Graduate School of Management
- Melbourne Business School

Canada

- University of Toronto: Rothman
- University of Western Ontario: Ivey

Ireland

- University College Dublin

Germany

- Bradford School of Management/Nimbas

China

- Ceibs

Italy

- SDA Bocconi

Switzerland

- IMD

France

- Insead

Singapore

- Insead

Spain

- University of Michigan
- Lese Business School
- Instituto de Empresa

Netherlands

- Bradford School of Management/Nimbas
- Rotterdam School of Management
- Universiteit Nyenrode”.

114. In Appendix A, after paragraph 58A insert:

“Attributes for Tier 2 (General) Migrants and Tier 2 (Intra-Company Transfer) Migrants

59. An applicant applying for entry clearance or leave to remain as a Tier 2 (General) Migrant or as a Tier 2 (Intra-Company Transfer) Migrant must score 50 points for attributes.
60. Subject to paragraph 61, available points for entry clearance or leave to remain are shown in Table 10.
61. Available points for leave to remain are shown in Table 11 for an applicant:
 - (a) who has, or was last granted, entry clearance or leave to remain as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, provided that
 - (i) the Sponsor is the same person who sponsored him when he was last granted leave, and
 - (ii) the job that the applicant is being sponsored to do is the same as the one he was sponsored to do when he was last granted leave,

(b) who has, or was last granted, entry clearance, leave to enter or leave to remain as a Qualifying Work Permit Holder, provided that:

(i) the Sponsor is the same person who was issued with a work permit in respect of the application when he was last granted leave, and

(ii) the job that the applicant is being sponsored to do is the same as the one in respect of which the work permit was issued when he was last granted leave,

(c) who has, or was last granted, entry clearance, leave to enter or leave to remain as a Member of the Operational Ground Staff of an Overseas-owned Airline, a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, or a Jewish Agency Employee, provided that:

(i) the Sponsor is the same person for whom the applicant was working, or intending to work, when he was last granted leave, and

(ii) the job that the applicant is being sponsored to do is the same as the one that he was doing, or intending to do, when he was last granted leave, or

(d) who is a Senior Care Worker or an Established Entertainer.

62. Notes to accompany Table 10 and Table 11 appear below the respective tables.

Table 10

Sponsorship	Points	Qualifications	Points	Prospective Earnings	Points
Shortage occupation	50	None or below an appropriate sub-degree level qualification	0	Under £17000	0
Job offer passes Resident Labour Market Test	30	Appropriate sub-degree level qualification	5	£17000-19999.99	5
Intra-Company Transfer	30	Bachelors or Masters	10	£20000-21999.99	10
Post Study Work (see note 73)	30	PhD	15	£22000-23999.99	15
				£24000+	20

Notes

Sponsorship

63. In order to obtain points under any category in the “Sponsorship” column, the applicant will need to provide a valid Certificate of Sponsorship reference number for sponsorship in the sub-category of Tier 2 under which he is applying.
64. A migrant cannot score points for sponsorship from Tables 10 or 11 if the job that the Certificate of Sponsorship Checking Service entry records that he is being sponsored to do is as a Sports person or a Minister of Religion.
65. Points can only be scored for one criterion in the sponsorship column. For example, if a company brings in an intra company transferee after applying the resident labour market test to the post, the migrant will receive 30 points, not 60.
66. A Certificate of Sponsorship reference number will only be considered to be valid if the number supplied links to a Certificate of Sponsorship Checking Service entry that names the applicant as the migrant and confirms that the Sponsor is sponsoring him in the Tier 2 category indicated by the migrant in his application for entry clearance or leave to remain (that is, as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant)).
67. The Sponsor must have assigned the Certificate of Sponsorship reference number to the migrant no more than 3 months before the application for entry clearance or leave to remain is made and that Reference Number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since then.
68. The migrant must not previously have been granted entry clearance, leave to enter or leave to remain relying on the same Certificate of Sponsorship reference number.
69. No points will be awarded for sponsorship unless:

- (a) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the United Kingdom Border Agency's list of skilled occupations, and
 - (b) the salary (which for these purposes includes such allowances as are specified as acceptable for this purpose in guidance issued by the United Kingdom Border Agency) that the Certificate of Sponsorship Checking Service entry records that the migrant will be paid is at or above the appropriate rate for the job, as stated in guidance published by the United Kingdom Border Agency.
70. In order for the applicant to be awarded points for a job offer in a shortage occupation, the job must, at the time the Certificate of Sponsorship was issued, have appeared on the list of shortage occupations published by the United Kingdom Border Agency, and contracted working hours must be for at least 30 hours a week. Furthermore, if the United Kingdom Border Agency guidance indicates that the job appears on the "Scotland only" shortage occupation list, the job offer must be for employment in Scotland.
 71. In order for the applicant to be awarded points for a job offer that passes the resident labour market test, the Certificate of Sponsorship Checking Service entry must indicate that the Sponsor has met the requirements of that test, as defined in guidance published by the United Kingdom Border Agency, in respect of the job.
 72. In order for the applicant to be awarded points for being an intra-company transfer, the Certificate of Sponsorship Checking Service entry must confirm that the applicant will be coming to the UK to work for the Sponsor as a Tier 2 (Intra-Company Transfer) Migrant. The applicant must also have been working for the Sponsor outside the UK for a continuous period of at least 6 months immediately prior to the date of the application, and must provide the specified documents to prove this.
 73. In order for the applicant to be awarded points under post-study work, the applicant must meet the following requirements:
 - (a) he must be applying for leave to remain,
 - (b) he must have, or have last been granted, entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant, or as a Participant in the International Graduates' Scheme (or its predecessor, the Science and Engineering Graduates' Scheme) or as a Participant in the Fresh Talent: Working in Scotland Scheme,
 - (c) he must have been working for the Sponsor for a continuous period of at least 6 months immediately prior to the date of his application for leave to remain, and must provide the specified documents to prove this, and
 - (d) the job he is being sponsored to do must be the same as the one he is doing at the time of his application.

Qualifications

74. Specified documents must be provided as evidence of the qualification, unless:
 - (a) the applicant is applying for leave to remain and has, or was last granted, leave as a Highly Skilled Migrant, a Tier 1 (General) Migrant, a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, and
 - (b) the applicant previously scored points for the same qualification in respect of which points are being claimed in this application.
75. An "appropriate sub-degree level qualification" means:
 - (a) 1 or more passes at GCE A level, or
 - (b) a qualification obtained in the UK that is deemed by the appropriate qualifications framework in the part of the UK in which it was obtained (as set out in United Kingdom Border Agency guidance) to be equivalent to, or higher than, (a) but below degree level, or
 - (c) a qualification obtained outside the UK, where the applicant provides the specified evidence to show that it is equivalent to, or higher than, (a) but below degree level.
76. Points will only be awarded for a qualification if:
 - (a) an applicant's qualification is deemed by UK NARIC, or the United Kingdom Border Agency (in published guidance), to meet or exceed the recognised standard of a Bachelor's or Master's degree, or a PhD, in the UK, or
 - (b) the qualification is below the recognised standard of a Bachelor's or Master's degree, or a PhD, in the UK, but the applicant submits the specified evidence to prove that it is an appropriate sub-degree level qualification (see paragraph 75).
77. Points will be awarded for a vocational or professional qualification if:
 - (a) the qualification is deemed by UK NARIC to be equivalent to a PhD, Bachelor's or Master's degree in the UK, or
 - (b) the qualification is below the recognised standard of a Bachelor's or Master's degree, or a PhD, in the UK, but the applicant submits the specified evidence to prove it is an appropriate sub-degree level qualification (see paragraph 75).

78. Points can only be scored for one qualification. For example, if an applicant has both a Bachelors and a PhD, that will score 15 points and not 25.

Prospective Earnings

79. The points awarded for prospective earnings will be based on the applicant’s gross annual salary (including such allowances as are specified as acceptable for this purpose in guidance issued by the United Kingdom Border Agency) to be paid by the Sponsor, as recorded in the Certificate of Sponsorship Checking Service entry to which the applicant’s Certificate of Sponsorship reference number relates.
80. Where the applicant is paid hourly, points will only be awarded for earnings up to a maximum of 48 hours a week, even if the applicant works for longer than this. For example, an applicant who works 60 hours a week for £8 per hour will be awarded points for prospective earnings of £19968 (8x48x52), which equates to 5 points, and not £25960 (8x60x52) which would equate to 20 points.

Table 11

Sponsorship	Points	Qualifications	Points	Prospective Earnings	Points
Transitional arrangements apply (see below)	50	None, or below an appropriate sub degree level qualification	0	Below £17000	0
Applicant was awarded points when last granted leave because the job was in a shortage occupation.	50	An appropriate sub degree level qualification	5	£17000-19999.99	5
		Bachelors or Masters	10	£20000-21999.99	10
Other cases in which applicant has a Certificate of Sponsorship	30	PhD	15	£22000-23999.99	15
				£24000+	20

Notes

Sponsorship

81. Paragraphs 63 to 68 apply.
82. No points will be awarded for sponsorship unless:
- (a) (i) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the United Kingdom Border Agency’s list of skilled occupations, or
 - (ii) the applicant is a Senior Care Worker or an Established Entertainer, and
 - (b) (unless the applicant is an Established Entertainer) the salary that the Certificate of Sponsorship Checking Service entry records that the migrant will be paid is at or above the appropriate rate for the job, as stated in the list of skilled occupations referred to in (a)(i).
83. In order to score points in the transitional arrangements category, the applicant must meet the following requirements:
- (a) the applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain as:
 - (i) a Qualifying Work Permit Holder,
 - (ii) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,
 - (iii) a Member of the Operational Ground Staff of an Overseas-owned Airline,
 - (iv) a Jewish Agency Employee, or
 - (v) a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, but only if, when he received his last grant of leave, he was awarded points under these provisions (i.e. the transitional arrangements),
 - (b) unless the applicant is a Senior Care Worker or an Established Entertainer, the Sponsor must be the same person for whom the applicant was working, or intending to work, when last granted leave. In the context of an applicant whose last grant of leave was as a Qualifying Work Permit Holder, this means that the work permit must have been issued to the same employer as the applicant is applying to work for now,

(c) unless the applicant is a Senior Care Worker or an Established Entertainer, the job that the Certificate of Sponsorship Checking Service entry records the applicant as having been engaged to do must be the same job:

(i) in respect of which the previous work permit was issued, in the case of an applicant whose last grant of leave was as a Qualifying Work Permit Holder,

(ii) that the applicant was doing, or intended to do, when he received his last grant of leave, in the case of an applicant whose last grant of leave was as a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, a Member of the Operational Ground Staff of an Overseas-owned Airline, or a Jewish Agency Employee, or

(iii) in respect of which the Certificate of Sponsorship that led to the previous grant was issued, in the case of an applicant whose last grant of leave was as a Tier 2 (General) Migrant or a Tier 2 (Intra-Company Transfer) Migrant, and

(d) the applicant's last grant of entry clearance in any of the categories listed in paragraph (a)(i) to (v) above must have been less than 5 years prior to the date of the current application.

Qualifications and Prospective Earnings

84. Paragraphs 73 to 80 above apply.

Attributes for Tier 2 (Ministers of Religion) Migrants

85. An applicant applying for entry clearance or leave to remain as a Tier 2 (Minister of Religion) Migrant must score 50 points for attributes.

86. Available points are shown in Table 12 below.

87. Notes to accompany Table 12 appear below that table.

Table 12

Criterion	Points
Certificate of Sponsorship	50

Notes

88. In order to obtain points for sponsorship, the applicant will need to provide a valid Certificate of Sponsorship reference number for sponsorship in this category.

89. A Certificate of Sponsorship reference number will only be considered to be valid for the purposes of this sub-category if the number supplied links to a Certificate of Sponsorship Checking Service entry that records the applicant as the migrant and confirms that the Sponsor is sponsoring him as a Tier 2 (Minister of Religion) Migrant.

90. The Sponsor must have assigned the Certificate of Sponsorship reference number to the migrant no more than 3 months before the application is made and the reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since then.

91. The migrant must not previously have been granted entry clearance, leave to enter or leave to remain relying on the same Certificate of Sponsorship reference number.

92. In addition, the Certificate of Sponsorship Checking Service entry must confirm that:

(a) the resident labour market test, as defined in guidance published by the United Kingdom Border Agency, in respect of the job, has been complied with, unless the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Minister of Religion) Migrant or a Minister of Religion and the Sponsor is the same person as he was working for, or intending to work for, when last granted leave,

(b) the migrant:

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

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

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

(c) the Sponsor will maintain or accommodate the migrant.

Attributes for Tier 2 (Sportsperson) Migrants

93. An applicant applying for entry clearance or leave to remain as a Tier 2 (Sportsperson) Migrant must score 50 points for attributes.

94. Available points are shown in Table 13 below.

95. Notes to accompany Table 13 appear below that table.

Table 13

Criterion	Points
Certificate of Sponsorship	50

Notes

96. In order to obtain points for sponsorship, the applicant will need to provide a valid Certificate of Sponsorship reference number for sponsorship in this subcategory.
97. A Certificate of Sponsorship reference number will only be valid for the purposes of this subcategory if the number supplied links to a Certificate of Sponsorship Checking Service entry that names the applicant as the migrant and confirms that the Sponsor is sponsoring him as a Tier 2 (Sportsperson) Migrant.
98. The Sponsor must have assigned the Certificate of Sponsorship reference number to the migrant no more than 3 months before the application is made and the reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since then.
99. The migrant must not previously have been granted entry clearance, leave to enter or leave to remain relying on the same Certificate of Sponsorship reference number.
100. In addition, the Certificate of Sponsorship Checking Service entry must confirm that the migrant:
- (a) is qualified to do the job in question,
 - (b) has been endorsed by the Governing Body for his sport (that is, the organisation which is specified in the United Kingdom Border Agency published guidance as being the Governing Body for the sport in question),
 - (c) intends to base himself in the UK, and
 - (d) will comply with the conditions of his leave, if his application is successful.

Attributes for Tier 5 (Youth Mobility Scheme) Temporary Migrants

101. An applicant applying for entry clearance as a Tier 5 (Youth Mobility Scheme) Temporary Migrant must score 40 points for attributes.
102. Available points are shown in Table 14 below.
103. Notes to accompany Table 14 appear below that table.

Table 14

Criterion	Points
Citizen of a country in Appendix G, or Is a British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas.)	30
Will be 18 or over when his entry clearance becomes valid for use and was under the age of 31 on the date his application was made.	10

Notes

104. Specified documents must be provided as evidence of all of the above.

Attributes for Tier 5 (Temporary Worker) Migrants

105. An applicant applying for entry clearance or leave enter or remain as a Tier 5 (Temporary Worker) Migrant must score 30 points for attributes.
106. Available points are shown in Table 15 below.
107. Notes to accompany Table 15 appear below that table.

Table 15

Criterion	Points awarded
Holds a Tier 5 (Temporary Worker) Certificate of Sponsorship.	30

Notes

108. In order to meet the “holds a Certificate of Sponsorship” requirement, the applicant will need to provide a valid Certificate of Sponsorship reference number for sponsorship in this category.
109. A Certificate of Sponsorship reference number will only be considered to be valid if the number supplied links to a Certificate of Sponsorship Checking Service reference that names the applicant as the migrant and confirms that the Sponsor is sponsoring him as a Tier 5 (Temporary Worker) Migrant in the subcategory indicated by the migrant in his application for entry clearance or leave. The Sponsor must have been assigned the Certificate of Sponsorship reference number no more than 3 months before the application is made and the reference number must not have been cancelled by the Sponsor or by the United Kingdom Border Agency since then.
110. The migrant must not previously have been granted entry clearance, leave to enter or leave to remain relying on the same Certificate of Sponsorship reference number.
111. In addition, where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the creative and sporting subcategory of the Tier 5 (Temporary Worker) route to enable the applicant to work as a sports person, the Certificate of Sponsorship Checking Service entry must show that the applicant has been endorsed by the Governing Body for his sport (that is, the organisation which is specified in the United Kingdom Border Agency’s published guidance as being the Governing Body for the sport in question).”.
115. Above paragraph 1 of Appendix B, insert the heading: “**Tier 1 Migrants**”.
116. In paragraph 2 of Appendix B, after “awarded” insert “to an applicant in Tier 1 (General) or Tier 1 (Entrepreneur)”
117. Delete paragraph 2(f) of Appendix B.
118. After paragraph 2 of Appendix B, insert
 3. 10 points will only be awarded to an applicant in Tier 1 (Post Study Work) if the applicant has achieved 75 points under Appendix A.

Tier 2 Migrants

4. An applicant applying for entry clearance or leave to remain as a Tier 2 Migrant must have 10 points for English language unless:
 - (a) the applicant is applying for entry clearance as a Tier 2 (Intra-Company Transfer) Migrant, or
 - (b) the applicant is:
 - (i) applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, and
 - (ii) is not seeking a grant of leave to remain that would extend his total stay in this category beyond 3 years.
5. Where the applicant is applying as a Tier 2 (General) Migrant, a Tier 2 (Sports person) Migrant or as a Tier 2 (Intra-Company Transfer) Migrant, 10 points will only be awarded if:
 - (a) the applicant has the level of English shown in Table 1 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 that the Secretary of State specifies in guidance as being required to meet the standard laid down in Table 1) 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 in the UK, and provides the specified evidence to show he has the qualification and:
 - (1) UK NARIC has confirmed that the degree was taught or researched in English to level C1 of the Council of Europe’s Common European Framework for Language Learning or above, or
 - (2) the applicant provides the specified evidence to show that the qualification was taught or researched in English,
 - (b) one or more of paragraph 2(b)-2(e) applies to the applicant
 - (c) the applicant has, or was last granted:
 - (i) entry clearance, leave to enter or leave to remain as a Tier 2 (General), Tier 2 (Sports person) or Tier 2 (Minister of Religion) Migrant,
 - (ii) entry clearance, leave to enter or leave to remain as a Minister of Religion, Missionary or Member

- of a Religious Order provided that leave was granted on or after 23 August 2004, or
- (iii) leave to remain as a Tier 2 (Intra-Company Transfer) Migrant, provided that when he was granted that leave he was required to obtain points for English language from this Appendix,
- (d) the applicant is applying for leave to remain as a Tier 2 (General) or Tier 2 (Intra-Company Transfer) Migrant and has obtained points from the transitional arrangements category in Table 11 of Appendix A (see paragraph 83 of Appendix A), or
- (e) the applicant is applying for leave to remain as a Tier 2 (Sportsperson) Migrant and:
 - (i) has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Sportsperson) Migrant or a Qualifying Work Permit Holder, such grant being less than 5 years before the date of the current application for leave, and
 - (ii) is working for the same employer.

Table 1

Level of English language	Points awarded
Competence in English to a basic user standard, including an ability to understand and use familiar everyday expressions, to introduce themselves and others and to ask and answer questions about basic personal details.	10

6. Where the applicant is applying as a Tier 2 (Minister of Religion) Migrant, 10 points will only be awarded:

- (a) if the applicant has the level of English shown in Table 2; 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 that the Secretary of State specifies in guidance as being required to meet the standard laid down in Table 2) 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 in the UK and both provides the specified evidence to show he has the qualification, and UK NARIC has confirmed that the degree was taught or researched in English to level C1 of the Council of Europe's Common European Framework for Language Learning or above,
- (b) one or more of paragraph 2(b)-2(e) applies to the applicant,
- (c) the applicant has, or was last granted entry clearance, leave to enter or leave to remain as:
 - (i) a Minister of Religion, Missionary or Member of a Religious Order, provided the leave was granted on or after 19 April 2007, or
 - (ii) a Tier 2 (Minister of Religion) Migrant, or
- (d) the applicant is applying for leave to remain as a Tier 2 (Minister of Religion) Migrant and:
 - (i) has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 2 (Minister of Religion) Migrant or as a Minister of Religion, Missionary or Member of a Religious Order, such grant being less than 5 years before the date of the current application for leave, and
 - (ii) is working for the same employer.

Table 2

Level of English language	Points awarded
A level of English equivalent to level B2 of the Council of Europe's Common European Framework for Language Learning or above.	10

119. In Appendix C, above paragraph 1 insert:

“1A In all cases where an applicant is required to obtain points under Appendix C, the applicant must have the funds specified in the relevant part of Appendix C at the date of the application and must also have had those funds for a period of time set out in the guidance specifying the specified documents for that purpose.

Tier 1 Migrants”.

120. Delete paragraph 3 of Appendix C.

121. In Appendix C, after paragraph 3 insert:

“Tier 2 Migrants”

4. An applicant applying for entry clearance or leave to enter or remain as a Tier 2 Migrant must score 10 points for Funds.

5. 10 points will only be awarded if:

(a) the applicant has the level of funds shown in the table below and provides the specified documents:

Level of funds	Points awarded
£800	10

(b) the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as:

- (i) a Tier 2 Migrant,
- (ii) a Jewish Agency Employee,
- (iii) a Member of the Operational Ground Staff of an Overseas- owned Airline,
- (iv) a Minister of Religion, Missionary or Member of a Religious Order,
- (v) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, or
- (vi) a Work Permit Holder, or

(c) he is applying for leave to remain as a Tier 2 (General) Migrant and obtains points under the post-study work provisions in Table 10 of Appendix A, or

(d) the Sponsor is an A rated Sponsor and provides a written undertaking that, should it become necessary, it will maintain and accommodate the migrant up to the end of the first month of his employment.

Tier 5 (Youth Mobility) Temporary Migrants

6. An applicant applying for entry clearance as a Tier 5 (Youth Mobility) Temporary Migrant must score 10 points for Funds.

7. 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
£1600	10

Tier 5 (Temporary Worker) Migrants

8. A migrant applying for entry clearance or leave to remain as a Tier 5 (Temporary Worker) Migrant must score 10 points for Funds.

9. 10 points will only be awarded if the applicant has the level of funds shown in the table below and provides the specified documents:

Criterion	Points awarded
Meets one of the following criteria: <ul style="list-style-type: none"> • Has £800; or • The Sponsor is an A rated Sponsor and the Certificate of Sponsorship Checking Service confirms that the Sponsor has certified that that the applicant will not claim public funds during his period of leave as a Tier 5 (Temporary Worker) Migrant. 	10

122. In Appendix E, other than in paragraph (a), for each occurrence of “Tier 1 (General) Migrant” substitute “Relevant Points Based System Migrant”.

123. In paragraph (f) of Appendix E, for “The applicant must” substitute “In all cases the applicant must”.

124. At the end of Appendix F insert:

“Immigration rules as at 26 November 2008 relating to routes deleted on 27 November 2008

A) Requirements for leave to enter as an overseas qualified nurse or midwife

69M. The requirements to be met by a person seeking leave to enter as an overseas qualified nurse or midwife are that the applicant:

(i) has obtained confirmation from the Nursing and Midwifery Council that he is eligible:

(a) for admission to the Overseas Nurses Programme; or

(b) to undertake a period of supervised practice; or

(c) to undertake an adaptation programme leading to registration as a midwife; and

(ii) has been offered:

(a) a supervised practice placement through an education provider that is recognised by the Nursing and Midwifery Council; or

(b) a supervised practice placement in a setting approved by the Nursing and Midwifery Council; or

(c) a midwifery adaptation programme placement in a setting approved by the Nursing and Midwifery Council; and

(iii) did not obtain acceptance of the offer referred to in paragraph 69 (ii) by misrepresentation; and

(iv) is able and intends to undertake the supervised practice placement or midwife adaptation programme; and

(v) does not intend to engage in business or take employment, except:

(a) in connection with the supervised practice placement or midwife adaptation programme; or

(b) part-time work of a similar nature to the work undertaken on the supervised practice placement or midwife adaptation programme; and

(vi) is able to maintain and accommodate himself and any dependants without recourse to public funds.

Leave to enter the United Kingdom as an overseas qualified nurse or midwife

69N. Leave to enter the United Kingdom as an overseas qualified nurse or midwife may be granted for a period not exceeding 18 months, provided the Immigration Officer is satisfied that each of the requirements of paragraph 69M is met.

Refusal of leave to enter as an overseas qualified nurse or midwife

69O. Leave to enter the United Kingdom as an overseas qualified nurse or midwife is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 69M is met.

B) Requirements for an extension of stay as an overseas qualified nurse or midwife

69P. The requirements to be met by a person seeking an extension of stay as an overseas qualified nurse or midwife are that the applicant:

(i) has leave to enter or remain in the United Kingdom as a prospective student in accordance with paragraphs 82 - 87 of these Rules; or

(ii) has leave to enter or remain in the United Kingdom as a student in accordance with paragraphs 57 to 69L of these Rules; or

(iii)(a) has leave to enter or remain in the United Kingdom as a work permit holder in accordance with paragraphs 128 to 135 of these Rules; or

C) Requirements for leave to enter the United Kingdom to take the PLAB Test

75A. The requirements to be met by a person seeking leave to enter in order to take the PLAB Test are that the applicant:

(iv) intends to leave the United Kingdom at the end of his leave granted under this paragraph unless he is successful in the PLAB Test and granted leave to remain:

(c) as a work permit holder for employment in the United Kingdom as a doctor in accordance with paragraphs 128 to 135.

Requirements for an extension of stay in order to take the PLAB Test

75D. The requirements for an extension of stay in the United Kingdom in order to take the PLAB Test are that the applicant:

(iv) intends to leave the United Kingdom at the end of his leave granted under this paragraph unless he is successful in the PLAB Test and granted leave to remain:

(c) as a work permit holder for employment in the United Kingdom as a doctor in accordance with paragraphs 128 to 135; *and*

Requirements for leave to enter to undertake a clinical attachment or dental observer post

75G. The requirements to be met by a person seeking leave to enter to undertake a clinical attachment or dental observer post are that the applicant:

(iv) intends to leave the United Kingdom at the end of his leave granted under this paragraph unless he is granted leave to remain:

(b) as a work permit holder for employment in the United Kingdom as a doctor or dentist in accordance with paragraphs 128 to 135; *and*

Requirements for an extension of stay in order to undertake a clinical attachment or dental observer post

75K. The requirements to be met by a person seeking an extension of stay to undertake a clinical attachment or dental observer post are that the applicant:

(iv) intends to leave the United Kingdom at the end of his period of leave granted under this paragraph unless he is granted leave to remain:

(b) as a work permit holder for employment in the United Kingdom as a doctor or dentist in accordance with paragraphs 128 to 135; *and*

D) Definition of an “au pair” placement

88. For the purposes of these Rules an “au pair” placement is an arrangement whereby a young person:

(a) comes to the United Kingdom for the purpose of learning the English language; and

(b) lives for a time as a member of an English speaking family with appropriate opportunities for study; and

(c) helps in the home for a maximum of 5 hours per day in return for a reasonable allowance and with two free days per week.

Requirements for leave to enter as an “au pair”

89. The requirements to be met by a person seeking leave to enter the United Kingdom as an “au pair” are that he:

(i) is seeking entry for the purpose of taking up an arranged placement which can be shown to fall within the definition set out in paragraph 88; and

(ii) is aged between 17-27 inclusive or was so aged when first given leave to enter in this capacity; and

(iii) is unmarried and is not a civil partner; and

(iv) is without dependants; and

(v) is a national of one of the following countries: Andorra, Bosnia-Herzegovina, Croatia, The Faroes, Greenland, Macedonia, Monaco, San Marino or Turkey; and

(vi) does not intend to stay in the United Kingdom for more than 2 years as an “au pair”; and

(vii) intends to leave the United Kingdom on completion of his stay as an “au pair”; and

(viii) if he has previously spent time in the United Kingdom as an “au pair”, is not seeking leave to enter to a date beyond 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity; and

(ix) is able to maintain and accommodate himself without recourse to public funds.

Leave to enter as an “au pair”

90. A person seeking leave to enter the United Kingdom as an “au pair” may be admitted for a period not exceeding 2 years with a prohibition on employment except as an “au pair” provided the Immigration Officer is satisfied that each of the requirements of paragraph 89 is met. (A non visa national who wishes to ascertain in advance whether a proposed “au pair” placement is likely to meet the requirements of paragraph 89 is advised to obtain an entry clearance before travelling to the United Kingdom).

Refusal of leave to enter as an “au pair”

91. An application for leave to enter as an “au pair” is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 89 is met.

E) Working holidaymakers

Requirements for leave to enter as a working holidaymaker

95. The requirements to be met by a person seeking leave to enter the United Kingdom as a working holidaymaker are that he:

(i) is a national or citizen of a country listed in Appendix 3 of these Rules, or a British Overseas Citizen; a British Overseas Territories Citizen; or a British National (Overseas); and

(ii) is aged between 17 and 30 inclusive or was so aged at the date of his application for leave to enter; and

- (iii)(a) is unmarried and is not a civil partner, or
- (b) is married to, or the civil partner of, a person who meets the requirements of this paragraph and the parties to the marriage or civil partnership intend to take a working holiday together; and
- (iv) has the means to pay for his return or onward journey, and
- (v) is able and intends to maintain and accommodate himself without recourse to public funds; and
- (vi) is intending only to take employment incidental to a holiday, and not to engage in business, or to provide services as a professional sportsperson, and in any event not to work for more than 12 months during his stay; and
- (vii) does not have dependent children any of whom are 5 years of age or over or who will reach 5 years of age before the applicant completes his working holiday; and
- (viii) intends to leave the UK at the end of his working holiday; and
- (ix) has not spent time in the United Kingdom on a previous working holidaymaker entry clearance; and
- (x) holds a valid United Kingdom entry clearance, granted for a limited period not exceeding 2 years, for entry in this capacity.

Leave to enter as a working holidaymaker

96. A person seeking to enter the United Kingdom as a working holidaymaker may be admitted provided he is able to produce on arrival a valid United Kingdom entry clearance granted for a period not exceeding 2 years for entry in this capacity.

Refusal of leave to enter as a working holidaymaker

97. Leave to enter as a working holidaymaker is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

F) Children of working holidaymakers

Requirements for leave to enter or remain as the child of a working holidaymaker

101. The requirements to be met by a person seeking leave to enter or remain in the United Kingdom as the child of a working holidaymaker are that:

- (i) he is the child of a parent admitted to, and currently present in, the United Kingdom as a working holidaymaker; and
- (ii) he is under the age of 5 and will leave the United Kingdom before reaching that age; and
- (iii) he can and will be maintained and accommodated adequately without recourse to public funds or without his parent(s) engaging in employment except as provided by paragraph 95 above; and
- (iv) both parents are being or have been admitted to the United Kingdom, save where:
 - (a) the parent he is accompanying or joining is his sole surviving parent; or
 - (b) the parent he is accompanying or joining has had sole responsibility for his upbringing; or
 - (c) there are serious and compelling family or other considerations which make exclusion from the United Kingdom undesirable and suitable arrangements have been made for his care; and
- (v) he holds a valid United Kingdom entry clearance for entry in this capacity or, if seeking leave to remain, was admitted with a valid United Kingdom entry clearance for entry in this capacity, and is seeking leave to a date not beyond the date to which his parent(s) have leave to enter in the working holidaymaker category.

Leave to enter or remain as the child of a working holidaymaker

102. A person seeking to enter the United Kingdom as the child of working holidaymaker/s must be able to produce on arrival a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter or remain as the child of a working holidaymaker

103. Leave to enter or remain in the United Kingdom as the child of a working holidaymaker is to be refused if, in relation to an application for leave to enter, a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, in the case of an application for leave to remain, the applicant was not admitted with a valid United Kingdom entry clearance for entry in this capacity or is unable to satisfy the Secretary of State that each of the requirements of paragraph 101 (i)-(iv) is met.

G) Requirements for leave to enter as a teacher or language assistant under an approved exchange scheme

110. The requirements to be met by a person seeking leave to enter the United Kingdom as a teacher or language assistant on an approved exchange scheme are that he:

- (i) is coming to an educational establishment in the United Kingdom under an exchange scheme approved by the Department for Education and Skills, the Scottish or Welsh Office of Education or the Department of Education, Northern Ireland, or administered by the British Council's Education and Training Group or the League for the Exchange of Commonwealth Teachers; and
- (ii) intends to leave the United Kingdom at the end of his exchange period; and

- (iii) does not intend to take employment except in the terms of this paragraph; and
- (iv) is able to maintain and accommodate himself and any dependants without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a teacher or language assistant under an exchange scheme

111. A person seeking leave to enter the United Kingdom as a teacher or language assistant under an approved exchange scheme may be given leave to enter for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a teacher or language assistant under an approved exchange scheme

112. Leave to enter the United Kingdom as a teacher or language assistant under an approved exchange scheme is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for extension of stay as a teacher or language assistant under an approved exchange scheme

113. The requirements for an extension of stay as a teacher or language assistant under an approved exchange scheme are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a teacher or language assistant; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 110 (ii)-(iv); and
- (v) would not, as a result of an extension of stay, remain in the United Kingdom as an exchange teacher or language assistant for more than 2 years from the date on which he was first given leave to enter the United Kingdom in this capacity.

Extension of stay as a teacher or language assistant under an approved exchange scheme

114. An extension of stay as a teacher or language assistant under an approved exchange scheme may be granted for a further period not exceeding 12 months provided the Secretary of State is satisfied that each of the requirements of paragraph 113 is met.

Refusal of extension of stay as a teacher or language assistant under an approved exchange scheme

115. An extension of stay as a teacher or language assistant under an approved exchange scheme is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 113 is met.

H) Requirements for leave to enter for Home Office approved training or work experience

116. The requirements to be met by a person seeking leave to enter the United Kingdom for Home Office approved training or work experience are that he:

- (i) holds a valid work permit from the Home Office issued under the Training and Work Experience Scheme; and
- (ii) DELETED
- (iii) is capable of undertaking the training or work experience as specified in his work permit; and
- (iv) intends to leave the United Kingdom on the completion of his training or work experience; and
- (v) does not intend to take employment except as specified in his work permit; and
- (vi) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vii) holds a valid United Kingdom entry clearance for entry in this capacity except where he holds a work permit valid for 6 months or less or he is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British subject.

Leave to enter for Home Office approved training or work experience

117. A person seeking leave to enter the United Kingdom for the purpose of approved training or approved work experience under the Training or Work Experience Scheme may be admitted to the United Kingdom for a period not exceeding the period of training or work experience approved by the Home Office for this purpose (as specified in his work permit), subject to a condition restricting him to that approved employment, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity or, where entry clearance is not required, provided the Immigration Officer is satisfied that each of the requirements of paragraph 116(i)-(vi) is met.

Refusal of leave to enter for Home Office approved training or work experience

118. Leave to enter the United Kingdom for Home Office approved training or work experience under the Training and Work Experience scheme is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, where entry clearance is not required, if the Immigration Officer is not satisfied that each of the requirements of paragraph 116(i)-(vi) is met.

Requirements for extension of stay for Home Office approved training or work experience

119. The requirements for an extension of stay for Home Office approved training or work experience are that the applicant:

- (i) entered the United Kingdom with a valid work permit under paragraph 117 or was admitted or allowed to remain in the United Kingdom as a student; and
- (ii) has written approval from the Home Office for an extension of stay in this category; and
- (iii) meets the requirements of paragraph 116 (ii)-(vi).

Extension of stay for Home Office approved training or work experience

120. An extension of stay for approved training or approved work experience under the Training and Work Experience scheme may be granted for a further period not exceeding the extended period of training or work experience approved by the Home Office for this purpose (as specified in his work permit), provided that in each case the Secretary of State is satisfied that the requirements of paragraph 119 are met. An extension of stay is to be subject to a condition permitting the applicant to take or change employment only with the permission of the Home Office.

Refusal of extension of stay for Home Office approved training or work experience

121. An extension of stay for approved training or approved work experience under the Training and Work Experience scheme is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 119 is met.

I) Representatives of overseas newspapers, news agencies and broadcasting organisations

Requirements for leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation

136. The requirements to be met by a person seeking leave to enter the United Kingdom as a representative of an overseas newspaper, news agency or broadcasting organisation are that he:

- (i) has been engaged by that organisation outside the United Kingdom and is being posted to the United Kingdom on a long term assignment as a representative; and
- (ii) intends to work full time as a representative of that overseas newspaper, news agency or broadcasting organisation; and
- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation

137. A person seeking leave to enter the United Kingdom as a representative of an overseas newspaper, news agency or broadcasting organisation may be admitted for a period not exceeding 2 years, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation

138. Leave to enter as a representative of an overseas newspaper, news agency or broadcasting organisation is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation

139. The requirements for an extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a representative of an overseas newspaper, news agency or broadcasting organisation; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question, as certified by his employer; and
- (iv) meets the requirements of paragraph 136 (ii)-(iv).

Extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation

140. An extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 139 is met.

Refusal of extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation

141. An extension of stay as a representative of an overseas newspaper, news agency or broadcasting organisation is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 139 is met.

J) Private servants in diplomatic households

Requirements for leave to enter as a private servant in a diplomatic household

152. The requirements to be met by a person seeking leave to enter the United Kingdom as a private servant in a diplomatic household are that he:

- (i) is aged 18 or over; and
- (ii) is employed as a private servant in the household of a member of staff of a diplomatic or consular mission who enjoys diplomatic privileges and immunity within the meaning of the Vienna Convention on Diplomatic and Consular Relations or a member of the family forming part of the household of such a person; and
- (iii) intends to work full time as a private servant within the terms of this paragraph; and
- (iv) does not intend to take employment except within the terms of this paragraph; and
- (v) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vi) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a private servant in a diplomatic household

153. A person seeking leave to enter the United Kingdom as a private servant in a diplomatic household may be given leave to enter for a period not exceeding 12 months provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a private servant in a diplomatic household

154. Leave to enter as a private servant in a diplomatic household is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a private servant in a diplomatic household

155. The requirements for an extension of stay as a private servant in a diplomatic household are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a private servant in a diplomatic household; and
- (ii) is still engaged in the employment for which his entry clearance was granted; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 152 (iii)-(v).

Extension of stay as a private servant in a diplomatic household

156. An extension of stay as a private servant in a diplomatic household may be granted for a period not exceeding 12 months at a time provided the Secretary of State is satisfied that each of the requirements of paragraph 155 is met.

Refusal of extension of stay as a private servant in a diplomatic household

157. An extension of stay as a private servant in a diplomatic household is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 155 is met.

K) Overseas government employees

Requirements for leave to enter as an overseas government employee

160. For the purposes of these Rules an overseas government employee means a person coming for employment by an overseas government or employed by the United Nations Organisation or other international organisation of which the United Kingdom is a member.

161. The requirements to be met by a person seeking leave to enter the United Kingdom as an overseas government employee are that he:

- (i) is able to produce either a valid United Kingdom entry clearance for entry in this capacity or satisfactory documentary evidence of his status as an overseas government employee; and
- (ii) intends to work full time for the government or organisation concerned; and

- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants adequately without recourse to public funds.

Leave to enter as an overseas government employee

162. A person seeking leave to enter the United Kingdom as an overseas government employee may be given leave to enter for a period not exceeding 2 years, provided he is able, on arrival, to produce to the Immigration Officer a valid United Kingdom entry clearance for entry in this capacity or satisfy the Immigration Officer that each of the requirements of paragraph 161 is met.

Refusal of leave to enter as an overseas government employee

163. Leave to enter as an overseas government employee is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or if the Immigration Officer is not satisfied that each of the requirements of paragraph 161 is met.

Requirements for an extension of stay as an overseas government employee

164. The requirements to be met by a person seeking an extension of stay as an overseas government employee are that the applicant:

- (i) was given leave to enter the United Kingdom under paragraph 162 as an overseas government employee; and
- (ii) is still engaged in the employment in question; and
- (iii) is still required for the employment in question, as certified by the employer; and
- (iv) meets the requirements of paragraph 161 (ii)-(iv).

Extension of stay as an overseas government employee

165. An extension of stay as an overseas government employee may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 164 is met.

Refusal of extension of stay as an overseas government employee

166. An extension of stay as an overseas government employee is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 164 is met.

L) Requirements for leave to enter as a minister of religion, missionary, or member of a religious order

170. The requirements to be met by a person seeking leave to enter the United Kingdom as a minister of religion, missionary or member of a religious order are that he:

- (i) (a) if seeking leave to enter as a Minister of Religion has either been working for at least one year as a minister of religion in any of the 5 years immediately prior to the date on which the application is made or, where ordination is prescribed by a religious faith as the sole means of entering the ministry, has been ordained as a minister of religion following at least one year's full time or two years' part time training for the ministry; or
- (b) if seeking leave to enter as a missionary has been trained as a missionary or has worked as a missionary and is being sent to the United Kingdom by an overseas organisation; or
- (c) if seeking leave to enter as a member of a religious order is coming to live in a community maintained by the religious order of which he is a member and, if intending to teach, does not intend to do so save at an establishment maintained by his order; and
- (ii) intends to work full time as a minister of religion, missionary or for the religious order of which he is a member; and
- (iii) does not intend to take employment except within the terms of this paragraph; and
- (iv) can maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (iva) if seeking leave as a Minister of Religion can produce an International English Language Testing System certificate issued to him to certify that he has achieved level 6 competence in spoken and written English and that it is dated not more than two years prior to the date on which the application is made.
- (v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a minister of religion, missionary, or member of a religious order

171. A person seeking leave to enter the United Kingdom as a minister of religion, missionary or member of a religious order may be admitted for a period not exceeding 2 years provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a minister of religion, missionary or member of a religious order

172. Leave to enter as a minister of religion, missionary or member of a religious order is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a minister of religion where entry to the United Kingdom was granted in that capacity

173. The requirements for an extension of stay as a minister of religion, where entry to the United Kingdom was granted in that capacity, missionary or member of a religious order are that the applicant:

(i) entered the United Kingdom with a valid United Kingdom entry clearance as a minister of religion, missionary or member of a religious order; and

(ii) is still engaged in the employment for which his entry clearance was granted; and

(iii) is still required for the employment in question as certified by the leadership of his congregation, his employer or the head of his religious order; and

(iv)(a) if he entered the United Kingdom as a minister of religion, missionary or member of a religious order in accordance with sub paragraph (i) prior to 23 August 2004 meets the requirements of paragraph 170(ii) - (iv); or

(b) if he entered the United Kingdom as a minister of religion, missionary or member of a religious order in accordance with sub paragraph (i), on or after 23 August 2004 but prior to 19 April 2007, or was granted leave to remain in accordance with paragraph 174B between those dates, meets the requirements of paragraph 170 (ii) - (iv), and if a minister of religion met the requirement to produce an International English Language Testing System certificate certifying that he achieved level 4 competence in spoken English at the time he was first granted leave in this capacity; or

(c) if he entered the United Kingdom as a minister of religion, missionary or member of a religious order in accordance with sub paragraph (i) on or after 19 April 2007, or was granted leave to remain in accordance with paragraph 174B on or after that date, meets the requirements of paragraph 170 (ii)-(iv), and if a minister of religion met the requirement to produce an International English Language Testing System certificate certifying that he achieved level 6 competence in spoken and written English at the time he was first granted leave in this capacity.

Extension of stay as a minister of religion, missionary or member of a religious order

174. An extension of stay as a minister of religion, missionary or member of a religious order may be granted for a period not exceeding 3 years provided the Secretary of State is satisfied that each of the requirements of paragraph 173 is met.

Requirements for an extension of stay as a minister of religion where entry to the United Kingdom was not granted in that capacity

174A The requirements for an extension of stay as a minister of religion for an applicant who did not enter the United Kingdom in that capacity are that he:

(i) entered the United Kingdom, or was given an extension of stay, in accordance with these Rules, except as a minister of religion or as a visitor under paragraphs 40 - 56 of these Rules, and has spent a continuous period of at least 12 months here pursuant to that leave immediately prior to the application being made; and

(ii) has either been working for at least one year as a minister of religion in any of the 5 years immediately prior to the date on which the application is made (provided that, when doing so, he was not in breach of a condition of any subsisting leave to enter or remain) or, where ordination is prescribed by a religious faith as the sole means of entering the ministry, has been ordained as a minister of religion following at least one year's full-time or two years part-time training for the ministry; and

(iii) is imminently to be appointed, or has been appointed, to a position as a minister of religion in the United Kingdom and is suitable for such a position, as certified by the leadership of his prospective congregation; and

(iv) meets the requirements of paragraph 170-(ii)-(iv)

Extension of stay as a minister of religion where leave to enter was not granted in that capacity

174B An extension of stay as a minister of religion may be granted for a period not exceeding 3 years at a time provided the Secretary of State is satisfied that each of the requirements of paragraph 174A is met.

Refusal of extension of stay as a minister of religion, missionary or member of a religious order

175. An extension of stay as a minister of religion, missionary or member of a religious order is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 173 or 174A is met.

M) Refusal of indefinite leave to remain for a minister of religion, missionary or member of a religious order

177. Indefinite leave to remain in the United Kingdom for a minister of religion, missionary or member of a religious order is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 176 is met.

177A. For the purposes of these Rules: Visiting religious workers and religious workers in non-pastoral roles

(i) a visiting religious worker means a person coming to the UK for a short period to perform religious duties at one or more locations in the UK;

(ii) a religious worker in a non-pastoral role means a person employed in the UK by the faith he is coming here to work for, whose duties include performing religious rites within the religious community, but not preaching to a congregation.

Requirements for leave to enter the United Kingdom as a visiting religious worker or a religious worker in a non-pastoral role

177B. The requirements to be met by a person seeking leave to enter as a visiting religious worker or a religious worker in a non-pastoral role are that the applicant:

(i) (a) if seeking leave to enter as a visiting religious worker:

(i) is an established religious worker based overseas; and

(ii) submits a letter(s) from a senior member or senior representative of one or more local religious communities in the UK confirming that he is invited to perform religious duties as a visiting religious worker at one or more locations in the UK and confirming the expected duration of that employment; and

(iii) if he has been granted leave as a visiting religious worker in the last 12 months, is not seeking leave to enter which, when amalgamated with his previous periods of leave in this category in the last 12 months, would total more than 6 months; or

(b) if seeking leave to enter as a religious worker in a non-pastoral role:

(i) has at least one year of full time training or work experience, or a period of part time training or work experience equivalent to one year full time training or work experience, accrued in the five years preceding the application in the faith with which he has employment in the UK; and

(ii) can show that, at the time of his application, at least one full-time member of staff of the local religious community which the applicant is applying to join in the UK has a sufficient knowledge of English; and

(iii) submits a letter from a senior member or senior representative of the local religious community which has invited him to the UK, confirming that he has been offered employment as religious worker in a non-pastoral role in that religious community, and confirming the duration of that employment; and

(ii) does not intend to take employment except as a visiting religious worker or religious worker in a non-pastoral role, whichever is the basis of his application; and

(iii) does not intend to undertake employment as a Minister of Religion, Missionary or Member of a Religious Order, as described in paragraphs 169-177 of these Rules; and

(iv) is able to maintain and accommodate himself and any dependants without recourse to public funds, or will, with any dependants, be maintained and accommodated adequately by the religious community employing him; and

(v) intends to leave the UK at the end of his leave in this category; and

(vi) holds a valid entry clearance for entry in this capacity except where he is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British subject.

Leave to enter as a visiting religious worker or a religious worker in a non-pastoral role

177C. Leave to enter the United Kingdom as a visiting religious worker or a religious worker in a non-pastoral role may be granted:

(a) as a visiting religious worker, for a period not exceeding 6 months; or

(b) as a religious worker in a non-pastoral role, for a period not exceeding 12 months;

provided the Immigration Officer is satisfied that each of the requirements of paragraph 177B is met.

Refusal of leave to enter as a visiting religious worker or a religious worker in a non-pastoral role

177D. Leave to enter as a visiting religious worker or a religious worker in a non-pastoral role is to be refused if the Immigration Officer is not satisfied that each of the requirements of paragraph 177B is met.

Requirements for an extension of stay as a visiting religious worker or a religious worker in a non-pastoral role

177E. The requirements to be met by a person seeking an extension of stay as a visiting religious worker or a religious worker in a non-pastoral role are that the applicant:

(i) entered the United Kingdom with a valid entry clearance in this capacity or was given leave to enter as a visiting religious worker or a religious worker in a non-pastoral role; and

(ii) intends to continue employment as a visiting religious worker or a religious worker in a non-pastoral role; and

(iii) if seeking an extension of stay as a visiting religious worker:

(a) meets the requirement of paragraph 177B(i)(a)(i) above; and

(b) submits a letter from a senior member or senior representative of one or more local religious communities in the UK confirming that he is still wanted to perform religious duties as a visiting religious worker at one or more locations in the UK and confirming the expected duration of that employment; and

(c) would not, as the result of an extension of stay, be granted leave as a visiting religious worker which, when amalgamated with his previous periods of leave in this category in the last 12 months, would total more than 6 months; or

(iv) if seeking an extension of stay as a religious worker in a non-pastoral role:

(a) meets the requirements of paragraph 177B(i)(b)(i) and (ii); and

(b) submits a letter from a senior member or senior representative of the local religious community for which he works in the UK confirming that his employment as a religious worker in a non-pastoral role in that religious community will continue, and confirming the duration of that employment; and

(c) would not, as the result of an extension of stay, remain in the UK for a period of more than 24 months as a religious worker in a non-pastoral role; and

(v) meets the requirements of paragraph 177B (ii) to (v); and

Extension of stay as a visiting religious worker or a religious worker in a non-pastoral role

177F. An extension of stay as a visiting religious worker or a religious worker in a non-pastoral role may be granted:

(a) as a visiting religious worker, for a period not exceeding 6 months; or

(b) as a religious worker in a non-pastoral role, for a period not exceeding 24 months;

if the Secretary of State is satisfied that each of the requirements of paragraph 177E is met.

Refusal of an extension of stay as a visiting religious worker or a religious worker in a non-pastoral role

177G. An extension of stay as a visiting religious worker or a religious worker in a non-pastoral role is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 177E is met.

N) Airport based operational ground staff of overseas-owned airlines

Requirements for leave to enter the United Kingdom as a member of the operational ground staff of an overseas-owned airline

178. The requirements to be met by a person seeking leave to enter the United Kingdom as a member of the operational ground staff of an overseas owned airline are that he:

(i) has been transferred to the United Kingdom by an overseas-owned airline operating services to and from the United Kingdom to take up duty at an international airport as station manager, security manager or technical manager; and

(ii) intends to work full time for the airline concerned; and

(iii) does not intend to take employment except within the terms of this paragraph; and

(iv) can maintain and accommodate himself and any dependants without recourse to public funds; and

(v) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a member of the operational ground staff of an overseas owned airline

179. A person seeking leave to enter the United Kingdom as a member of the operational ground staff of an overseas owned airline may be given leave to enter for a period not exceeding 2 years, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a member of the operational ground staff of an overseas owned airline

180. Leave to enter as a member of the operational ground staff of an overseas owned airline is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a member of the operational ground staff of an overseas owned airline

181. The requirements to be met by a person seeking an extension of stay as a member of the operational ground staff of an overseas owned airline are that the applicant:

(i) entered the United Kingdom with a valid United Kingdom entry clearance as a member of the operational ground staff of an overseas owned airline; and

(ii) is still engaged in the employment for which entry was granted; and

(iii) is still required for the employment in question, as certified by the employer; and

(iv) meets the requirements of paragraph 178 (ii)-(iv).

Extension of stay as a member of the operational ground staff of an overseas owned airline

182. An extension of stay as a member of the operational ground staff of an overseas owned airline may be granted for a period not exceeding 3 years, provided the Secretary of State is satisfied that each of the requirements of paragraph 181 is met.

Refusal of extension of stay as a member of the operational ground staff of an overseas owned airline

183. An extension of stay as a member of the operational ground staff of an overseas owned airline is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 181 is met.

O) Retired persons of independent means

Requirements for leave to enter the United Kingdom as a retired person of independent means

263. The requirements to be met by a person seeking leave to enter the United Kingdom as a retired person of independent means are that he:

- (i) is at least 60 years old; and
- (ii) has under his control and disposable in the United Kingdom an income of his own of not less than £25,000 per annum; and
- (iii) is able and willing to maintain and accommodate himself and any dependants indefinitely in the United Kingdom from his own resources with no assistance from any other person and without taking employment or having recourse to public funds; and
- (iv) can demonstrate a close connection with the United Kingdom; and
- (v) intends to make the United Kingdom his main home; and
- (vi) holds a valid United Kingdom entry clearance for entry in this capacity.

Leave to enter as a retired person of independent means

264. A person seeking leave to enter the United Kingdom as a retired person of independent means may be admitted subject to a condition prohibiting employment for a period not exceeding 5 years, provided he is able to produce to the Immigration Officer, on arrival, a valid United Kingdom entry clearance for entry in this capacity.

Refusal of leave to enter as a retired person of independent means

265. Leave to enter as a retired person of independent means is to be refused if a valid United Kingdom entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival.

Requirements for an extension of stay as a retired person of independent means

266. The requirements for an extension of stay as a retired person of independent means are that the applicant:

- (i) entered the United Kingdom with a valid United Kingdom entry clearance as a retired person of independent means; and
- (ii) meets the requirements of paragraph 263 (ii)-(iv); and
- (iii) has made the United Kingdom his main home.

Extension of stay as a retired person of independent means

266A. The requirements for an extension of stay as a retired person of independent means for a person in the United Kingdom as a work permit holder are that the applicant:

- (i) entered the United Kingdom or was granted leave to remain as a work permit holder in accordance with paragraphs 128 to 133 of these Rules; and
- (ii) meets the requirements of paragraph 263 (i) - (v).

266B. The requirements for an extension of stay as a retired person of independent means for a person in the United Kingdom as a highly skilled migrant are that the applicant:

- (i) entered the United Kingdom or was granted leave to remain as a highly skilled migrant in accordance with paragraphs 135A to 135F of these Rules; and
- (ii) meets the requirements of paragraph 263 (i) - (v).

266C. The requirements for an extension of stay as a retired person of independent means for a person in the United Kingdom to establish themselves or remain in business are that the applicant:

- (i) entered the United Kingdom or was granted leave to remain as a person intending to establish themselves or remain in business in accordance with paragraphs 201 to 208 of these Rules; and
- (ii) meets the requirements of paragraph 263 (i) - (v).

266D. The requirements for an extension of stay as a retired person of independent means for a person in the United Kingdom as an innovator are that the applicant:

- (i) entered the United Kingdom or was granted leave to remain as an innovator in accordance with paragraphs 210A to 210F of these Rules; and
- (ii) meets the requirements of paragraph 263 (i) - (v).

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, Tier 1 (Entrepreneur) Migrant or Tier 1 (Investor) Migrant are that the applicant:

(i) entered the UK or was granted leave to remain as a Tier 1 (General) Migrant, Tier 1 (Entrepreneur) Migrant or Tier 1 (Investor) Migrant; and

(ii) meets the requirements of paragraphs 263(i) to (v).

267. An extension of stay as a retired person of independent means, with a prohibition on the taking of employment, may be granted so as to bring the person's stay in this category up to a maximum of 5 years in aggregate, provided the Secretary of State is satisfied that each of the requirements of paragraph 266 is met. An extension of stay as a retired person of independent means, with a prohibition on the taking of employment, may be granted for a maximum period of 5 years, provided the Secretary of State is satisfied that each of the requirements of paragraph 266A, 266B, 266C, 266D or 266E is met.

Refusal of extension of stay as a retired person of independent means

268. An extension of stay as a retired person of independent means is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 266, 266A, 266B, 266C, 266D or 266E is met.

Indefinite leave to remain for a retired person of independent means

269. Indefinite leave to remain may be granted, on application, to a person admitted as a retired person of independent means provided he:

(i) has spent a continuous period of 5 years in the United Kingdom in this capacity; and

(ii) has met the requirements of paragraph 266 throughout the 5 year period and continues to do so.

Refusal of indefinite leave to remain for a retired person of independent means

270. Indefinite leave to remain in the United Kingdom for a retired person of independent means is to be refused if the Secretary of State is not satisfied that each of the requirements of paragraph 269 is met.”.

125. After Appendix F insert:

“Appendix G- Countries participating in the Tier 5 Youth Mobility Scheme

Australia

Canada

Japan

New Zealand”.



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**EXPLANATORY MEMORANDUM TO
THE STATEMENT OF CHANGES IN IMMIGRATION RULES
LAID ON 4 NOVEMBER 2008 (HC 1113)**

1. Introduction

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

2. Purpose of the instrument

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

- It implements Tier 2 of the Points Based System, making new provision for skilled workers from outside the European Economic Area (EEA), including Intra-Company Transferees, Sportspersons and Ministers of Religion. This will replace the existing work permits route.
- It implements Tier 5 of the Points Based System, providing two routes for people to come to the UK and work temporarily: a youth mobility scheme, and a temporary workers route.
- It makes a number of amendments to Tier 1 of the Points Based System.
- It makes some changes to the general grounds for refusal and curtailment provisions related to the introduction of sponsorship under Tiers 2 and 5 of the Points Based System.
- The Statement creates a new Business and Special Visitors category, making clear exactly what people who visit the UK on business can and cannot do.
- The minimum age at which a person may be granted entry clearance or leave as the spouse, civil partner, fiancé(e), proposed civil partner, unmarried or same-sex partner of a sponsor is increased from 18 to 21 years. Similarly the age at which a person may sponsor such an application is increased from 18 to 21.
- It allows United Kingdom Border Agency (UKBA) to specify a required standard for photographs supplied with applications.
- Finally, it deletes the existing route for Retired Persons of Independent Means.

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

3.1 None.

4. Legislative Context

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 The changes contained in paragraphs 5-9 of this Statement of Changes will come into effect on 25 November 2008. The other changes will come into force on 27 November 2008. In relation to implementing Tiers 2 and 5 of the Points Based System, this Statement of Changes follows on from two earlier Statements of Changes laid on, respectively, 6 February 2008 (HC 321) and 9 June 2008 (HC 607) which implemented Tier 1 of the Points Based System. It is intended to implement Tier 4 of the Points Based System in 2009 and a further Statement of Changes will be needed to do that.

Territorial Extent

4.3 This instrument applies to all of the United Kingdom.

5. European Convention on Human Rights

5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

6. Policy Background

What is being done and why

6.1 A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows.

The Points-Based System

6.2 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 document can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>. 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.

6.3 As mentioned above, Tier 1 was implemented by Statements of Changes HC 321 and HC 607 and was fully implemented on 30 June 2008. The intention is to implement Tier 4 in 2009. The need to implement Tier 3 will be kept under review according to the needs of the labour market.

6.4 More detailed plans for Tiers 2 and 5, which are implemented by this Statement of Changes, were set out in Statements of Intent published on 6 May 2008. These can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>.

Sponsorship under Tiers 2 and 5

6.5 Under the rules introduced by this Statement of Changes, all migrants under Tier 2 and Tier 5 (Temporary Workers) will be required to have a Certificate of Sponsorship issued by a licensed sponsor. Provisions about how a sponsor becomes a licensed sponsor and how a licensed sponsor issues a prospective migrant with a Certificate of Sponsorship are not contained in the immigration rules, rather in guidance published by the United Kingdom Border Agency. The guidance can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/sponsorapplicationsguidance.pdf>

6.6 In order to obtain a licence, a sponsor must satisfy the United Kingdom Border Agency that it is bona fide, honest and capable of complying with its duties. These duties include informing the United Kingdom Border Agency if the migrant does not turn up for his or her job, is absent for a significant period without the sponsor's permission or breaches the conditions of his or her

permission to be in the UK. A licensed sponsor will be able to apply to the United Kingdom Border Agency for Certificates of Sponsorship, up to a maximum number set by the United Kingdom Border Agency. The sponsor will give the Certificate of Sponsorship reference number to the prospective migrant who will then be able to tell the United Kingdom Border Agency this reference number when making their application for entry clearance or leave.

6.7 The sponsorship arrangements in Tier 5 (Youth Mobility) are explained in paragraph 6.19.

Tier 2

6.8 The aim of Tier 2 is to enable UK employers to recruit individuals from outside the EEA to fill a particular skilled job that cannot be filled by a British or EEA worker.

6.9 Tier 2 will consist of four subcategories:

- Tier 2 (General)- for skilled workers coming to do jobs that cannot be filled from the resident labour market;
- Tier 2 (Intra Company Transferee)- for skilled workers moving from an overseas branch of a company to a UK branch;
- Tier 2 (Minister of Religion)- for those coming to fill vacancies as religious workers with recognised religions, including preachers or pastoral workers;
- Tier 2 (Sportsperson) for elite sportspeople or coaches who are internationally established at the highest level, and whose employment in the UK will make a significant contribution to the development of their sport at the highest level in the UK. An endorsement from the relevant sport's Governing Body will be needed before a migrant can be granted permission to come or stay here in this category.

6.10 Tier 2 will replace the existing work permit system, including the provisions that govern Intra-Company Transfers and the employment of Sportspeople. From 27 November 2008 no further applications for work permits will be accepted. The United Kingdom Border Agency will, however, process all applications for work permits made before that date, and will continue to consider all such applications for entry clearance, leave to enter and leave to remain for people with work permits under the existing Immigration Rules.

6.11 This Statement of Changes will also replace the existing rules for Ministers of Religion.

6.12 Tier 2 will introduce the following key new measures:

- All migrants seeking to enter the UK under Tier 2 will need entry clearance.
- All migrants will need to have a **sponsor** who has been licensed by the United Kingdom Border Agency.
- The current work permit system, under which the employer applies to the United Kingdom Border Agency for a permit and the worker later applies for a visa, or for permission to stay here, will be replaced by a **single decision**. This means that, once sponsored, the migrant will make a single application to the United Kingdom Border Agency in which all the relevant issues will be considered. This will be a simpler and less bureaucratic application process which will at the same time strengthen the United Kingdom Border Agency's control.
- Migrants will need to obtain 50 points for a combination of attributes. Full details of the points that will be awarded and the circumstances in which they will be awarded are set out in paragraphs 59 to 100 of Appendix A. Some of the key points under Appendix A are that:

- All jobs, other than Intra-Company Transfers or jobs that appear on the shortage occupation list published by the Government today, will be required to meet the **resident labour market** test (RLMT) before a migrant can be recruited. The details of the RLMT can be found on the United Kingdom Border Agency’s website at <http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/residentlabourmarkettest>. It generally requires the job to have been advertised to the settled labour force for at least two weeks. Only if the employer cannot fill the job in this way will he or she be allowed to employ a migrant.
- Unless the job is in a shortage occupation, migrants in the General and Intra-Company Transferee subcategories of Tier 2 will need to score a minimum number of **points** for a combination of their qualifications and their prospective earnings in the UK in order to qualify for admission.
- The shortage occupation list was compiled after impartial advice from the **Migration Advisory Committee** (MAC) on those parts of the labour market where there are gaps that can sensibly be filled by migration.
- Migrants will need to obtain 10 points under paragraphs 4 to 6 of Appendix B which will require them to demonstrate **English language competence** to assist with their integration into British life. However, this requirement will only apply to Tier 2 (Intra-Company Transfer) Migrants if they wish to stay beyond three years. Full details of the points that will be awarded and the circumstances in which they will be awarded are set out in paragraphs 4 to 6 of Appendix B.
- Migrants will also need to obtain 10 points under Appendix C, which is a **maintenance requirement**, showing that they have the ability to support themselves for the first month they are here. Subject to transitional arrangements (see below) they will need to show that they have £800 available to support themselves. Alternatively, a migrant with an A-rated sponsor will be deemed to meet the maintenance requirement if the sponsor gives a written undertaking that it will, if necessary, maintain and accommodate the migrant up to the end of his or her first month of employment. An A-rated sponsor is a sponsor who the United Kingdom Border Agency is satisfied is fully complying with its sponsorship duties.
- All Tier 2 migrants will be able to be accompanied by their **dependants** (spouse/partner and children under 18). Under Appendix E, £533 will need to be available to support each dependant who will be joining the migrant in the UK. Full details are set out in Appendix E.
- This Statement of Changes reflects the current intention that Tier 2 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 at the time they apply for it.

Transitional arrangements

- 6.13 The new Rules for Tier 2 (General) and Tier 2 (Intra-Company Transferee) include transitional arrangements to minimise their impact on existing work permit holders. Provided they are working for the same employer, their job meets our skill level requirements and their employer has obtained a sponsor licence, these migrants will be able to extend their stay in the UK up to a total of five years without having to meet the specific Tier 2 criteria for qualifications, prospective earnings and English language.
- 6.14 Migrants applying in the Minister of Religion or Sportsperson subcategories who currently have leave as, respectively:
- a Minister of Religion under the current Rules; or

- a Work Permit holder;

will need to have a licensed sponsor but will not need to meet the English language or maintenance requirements.

Tier 5

6.15 Tier 5 is for temporary migrants to the UK who are coming to satisfy primarily non-economic objectives. It consists of two parts – Tier 5 (Youth Mobility) and Tier 5 (Temporary Workers).

Tier 5 (Youth Mobility)

6.16 The Youth Mobility Scheme is intended to allow young nationals of participating countries to experience life in the UK for up to two years, during which they will have free access to the labour market (with minor restrictions). It replaces the existing Working Holidaymaker route, and the Japan Youth Exchange Scheme and British Universities North America Club (BUNAC) concessions.

6.17 In order to qualify, a migrant will need to be a national of one of the following four countries listed in Appendix G:

- Australia;
- Canada;
- Japan;
- New Zealand;

or a British Overseas Citizen, British Overseas Territories Citizen or British National (Overseas), as defined by the British Nationality Act 1981.

6.18 These countries have all entered into reciprocal arrangements with the UK to allow at least 1000 young UK nationals per year to visit and work in their countries for at least 12 months. They also have effective arrangements with the UK allowing us to return their nationals to them, and their nationals pose a low risk of abusing of the UK's immigration controls.

6.19 All participants in the Youth Mobility Scheme must obtain 40 points under paragraphs 101 to 104 of Appendix A. Full details of the available points and the circumstances in which they will be awarded are set out in Appendix A. Participants must be sponsored by their Governments. Nationals of the countries listed in Annex G (referred to at paragraph 6.17 above) will be deemed to be sponsored by their Governments if they have a national passport. This is because these countries are considered to pose a particularly low immigration risk.

6.20 Each country listed in Annex G has an **annual allocation** of places on the scheme, which will be notified to the authorities of the country concerned. Where we have established reciprocal youth mobility arrangements with a country, the allocation will be set at a figure equal to the number of UK nationals who went to that country in the previous year under the reciprocal scheme in question. However, the minimum allocation for all countries will be 1000 places.

6.21 If a country has exceeded its allocation then we will not accept any further applications from its nationals under the Youth Mobility Scheme. There will be no annual allocation for British Overseas Citizens, British Dependent Territories Citizens or British Nationals (Overseas).

6.22 All participants will need to obtain 10 points under paragraphs 6 to 7 of Appendix C to show that they can support themselves, and we will therefore require them to have savings of at least £1600.

6.23 Other key features of the Youth Mobility Scheme are as follows:

- All participants will need entry clearance;
- They will need to be aged between 18 and 30, and have no dependant children;
- They will be granted leave for two years, and will be able to work for as much of that period as they wish;
- Migrants will only be allowed to come here once under this route. Anyone who has previously spent time here under the Youth Mobility Scheme, or as a Working Holidaymaker, will not be eligible;
- No dependants will be allowed (though there is nothing to stop the spouse or partner of a participant also applying for entry clearance under the scheme and accompanying him/her, if eligible);
- Participants will not be able to extend their stay in this route or apply for settlement, and will not be able to switch into any other work or study route.

Tier 5 (Temporary Workers)

6.24 This category allows certain types of temporary worker to come to the UK for cultural, charitable, religious or international objectives.

6.25 Tier 5 (Temporary Workers) has the following subcategories, full details of which are set out in guidance published by the United Kingdom Border Agency. The guidance can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>

- **Creative and Sporting:** for people coming to work or perform as sportspeople, entertainers or creative artists;
- **Charity workers:** for people coming to do temporary and voluntary work for a charity;
- **Religious:** for people coming to work temporarily in a religious role;
- **Government Authorised Exchange:** for migrants coming through schemes aimed at sharing knowledge, experience and best practice. All such schemes must be approved by a Government department;
- **International Agreement:** for migrants coming to the UK to provide a service in circumstances covered by an international treaty to which the UK is party. This includes private servants in diplomatic households.

6.26 Key provisions of the Tier 5 (Temporary Worker) route are as follows:

- All migrants will need **entry clearance** unless they are coming for three months or less in the creative and sporting subcategory and are not visa nationals (that is, nationals of a country whose citizens need visas to come to the UK for any purpose).
- All migrants will need to obtain 30 points under Appendix A. Full details of the available points and the circumstances in which they will be awarded are set out in paragraphs 105 to 111 of Appendix A. Amongst other things, migrants will need to have a **sponsor** who has been licensed by the United Kingdom Border Agency.
- All migrants will need to obtain 10 points under Appendix C to show that they can support themselves until they begin receiving an income, and we will therefore require them to have savings of at least £800. Full details of the available points and the circumstances in which

they will be awarded are set out in paragraphs 8 to 9 of Appendix C. Migrants with an A-rated sponsor will be deemed to meet this requirement if the sponsor certifies that they will not claim public funds while in the UK.

- The maximum stay will generally be 12 months if the Certificate of Sponsorship was issued in the creative and sporting or charity workers subcategories, and two years otherwise. However, people working in the creative sector will be able to apply to stay for a further 12 months once they are in the UK, bringing their total stay up to two years. Servants of diplomats, and employees of overseas Governments will, if entering under the International Agreement subcategory, be able to apply for annual extensions up to a maximum of six years.
- Tier 5 (Temporary Worker) migrants will be able to be accompanied by their **dependants** (spouse/partner and children under 18). Under Appendix E, £533 will need to be available to support each dependant who will be joining the migrant in the UK. Full details are set out in Appendix E.
- It will not be possible to obtain settlement in this route, or to switch from it into any other work or study route.

Changes to the general grounds for refusal and powers of curtailment

6.27 To support Tiers 2 and 5 of the Points Based System, and in particular the introduction of sponsorship, we are making some changes to the General Grounds for Refusal. We are amending paragraph 320(7A), 321(i) and 322(1A) of the Rules to ensure that the provision of false information to a sponsor in order to get a Certificate of Sponsorship is a ground for refusal. We are also making provision in new paragraph 323A for a migrant's leave to be curtailed, or its duration reduced, if the sponsor ceases to hold a licence, or if the migrant stops working for the sponsor.

Amendments to Tier 1 of the Points Based System

6.28 Tier 1 of the Points Based System caters for highly skilled migrants and was fully launched on 30 June 2008. This Statement of Changes makes a number of amendments to it, of which the key ones are:

- We are introducing additional **transitional arrangements** for certain MBA students. Under the Highly Skilled Migrant Programme, which has now been replaced by Tier 1 (General), people with an MBA qualification from one of 50 business schools around the world would (subject to meeting the English language requirements) qualify for the Approval Letter that they needed in order to apply to come here.
- In order to cater for students who joined a relevant MBA course in the expectation that it would enable them to come to the UK as a highly skilled migrant, we are providing that any MBA graduate from the relevant institution who started his or her course on or before 29 June 2008, and who applies within a year of graduating, will score the points for qualifications and previous earnings that he or she needs in order to qualify to join Tier 1 (General). The migrant will still need to meet the English language and maintenance requirements (set out in, respectively, Appendix B and Appendix C of the immigration rules).
- We are providing for migrants in the Investor and Entrepreneur subcategories of Tier 1 to have their permission to be here curtailed if they do not make their investment, or register their business, within the required period.

Business and Special Visitors Category

- 6.29 Alongside, the wider changes we are taking the opportunity to review and modernise our short-term migration system to ensure that legitimate visitors connect with the UK quickly. In June 2008 we published our response to the public consultation on visitors setting out our proposals to introduce three new visitor categories. In accordance with that we are introducing now the first of these; namely, a new clear, distinct business category to clarify for the business community what activities business visitors can do in the UK.
- 6.30 We are also introducing, again in response to the consultation, visas for visiting sportspeople and entertainers, bringing within the Immigration Rules concessionary arrangements that currently apply to those groups. Finally, we are also introducing a Special Visitors visa to bring together what are currently separate Immigration Rules that have been introduced when a need was identified.

Increase in the marriage visa age from 18-21

- 6.31 Following a full consultation, the United Kingdom Border Agency published in July 2008 *Marriage Visas- the Way Forward-* setting out the Government's intentions. This document stated that the Government would increase the age at which someone could sponsor, or be sponsored, as a spouse from 18-21. The policy objective of the change is to tackle the problem of forced marriage. The benefits of raising the age include:
- a. It will provide an opportunity for individuals to develop maturity and life skills which may allow them to resist the pressure of being forced into a marriage;
 - b. It will provide an opportunity to complete education and training;
 - c. It will delay sponsorship and therefore the time spent with the (sometimes abusive) sponsor if the sponsor returns to the UK; and
 - d. It will allow the victim of forced marriage an opportunity to seek help/advice before sponsorship, and extra time to make a decision about whether to sponsor.
- 6.32 The Government's Forced Marriage Unit handles about 5000 enquiries and 400 cases per year concerning British residents at risk of being forced into marriage overseas. Although forced marriage can occur at any age, the numbers fall sharply from age 29 onwards. Of the cases dealt with by the Forced Marriage Unit in the period 2005-June 2008, 10% (72) cases involved victims aged 18, and 8.5% (60 cases) those aged 20. By age 21, reports of forced marriage begin to decline sharply.
- 6.33 In order to ensure, as far as possible, consistency in the way that that spouses, fiancé(e)s, civil partners, proposed civil partners, unmarried and same-sex partners are treated under the Immigration Rules, the raising of the age from 18 to 21 has been applied to civil partners, proposed civil partners, unmarried and same-sex partners as well as to spouses and fiancé(e)s.
- 6.34 If a person has already (at the time the change comes into effect) been granted entry clearance or leave as a spouse, civil partner, fiancé(e), proposed civil partner, unmarried or same-sex partner, he or she will not be prevented because he or she may be aged under 21 from applying for, and, if appropriate, being granted settlement.

Photographs supplied with applications

- 6.35 A change is being made to the rule relating to the photographs that applicants must supply with their applications for permission to stay in the UK. This allows us to require photos to be provided in a certain format, as specified in guidance. We are making these changes so we can require photos to be supplied in line with the standard set by the International Civil Aviation

Organisation. This consistency is needed to allow the United Kingdom Border Agency to utilise facial recognition technology, to reduce the risk of identity fraud and to improve the processing of applications.

- 6.36 These provisions will come into force on 25 November 2008 in order to support the introduction from that date of Identity Cards for certain foreign nationals. At the same time, we are deleting the words “or biometric” from paragraph 34A(iv) of the Rules. This is because the provision of biometric information to support the introduction of Identity Cards is governed by the Immigration (Biometric Registration) Regulations 2008, making the reference in the Immigration Rules redundant.

Deletion of the Retired Persons of Independent Means route

- 6.37 The consultation document *The Path to Citizenship: next steps in reforming the immigration system* outlines reform of the path to British citizenship to reinforce our shared values. The consultation document was published on 20 February 2008.
- 6.38 In modernising our system, we need to pay close attention to all the different routes that have existed in the past which can currently lead to indefinite leave to remain and how they should be affected by our current proposals.
- 6.39 Paragraphs 263-270 of the Immigration Rules currently allow retired persons of independent means to come to the UK if they are aged 60 or over, have a net disposable income of at least £25,000 a year, can demonstrate a close connection with the UK, intend to make the UK their home and are able to maintain and accommodate themselves and any dependants without employment or recourse to public funds. This route provides an avenue to settlement after five years of continuous residence. Migrants entering the UK through this route are not required to have worked or paid taxes in the UK but have free access to healthcare on arrival and full access to the benefit system after 5 years. In an average year, fewer than 20 people enter the UK in this route.
- 6.40 It is difficult to reconcile the existence and entitlements of this route with the Government’s conviction that citizenship should be earned and that migrants must demonstrate certain requirements in order to progress on their journey. Although the migrants need to be self sufficient, the amount of disposable income that these migrants must demonstrate may not match the demands they may place on public services.
- 6.41 In light of this, and the limited numbers applying under this route, we believe it is right to no longer permit entry as a retired person of independent means. We will therefore delete Paragraphs 263-265.
- 6.42 This will not affect the entitlement of people who are already here as retired persons of independent means to remain in the UK, apply for settlement once they have been here for five years or to be joined by their dependants.

Immigration routes being deleted by this Statement

- 6.43 This Statement of Changes deletes the following routes from the Immigration Rules:

- Overseas Qualified Nurses and Midwives;
- Au pairs;
- Working Holidaymakers;
- Children of Working Holidaymakers;
- Representatives of overseas newspapers etc;

- Ministers of Religion;
- Operational Ground Staff of overseas-owned airlines;
- Exchange Teachers and Language Assistants;
- Private Servants in Diplomatic Households;
- Overseas Government Employees;
- Non-pastoral Religious Workers/visiting Religious Worker;
- Retired Persons of Independent Means.

6.44 The following provisions, which existed as concessions outside the Immigration Rules, are also being deleted:

- British Universities North America Club (BUNAC);
- Gap Year Entrants;
- Japan: Youth Exchange Scheme;
- Research Assistants to Members of Parliament (under the Points Based System, these will be able to come in either under the Youth Mobility Scheme- if otherwise eligible- or as students- provided at least 50% of their time in the UK is taken up by study);
- General Agreement on Trade in Services concession;
- International Association for the Exchange of Students of Technical Experience;
- International Fire Fighter Fellowship Programme;
- EU Leonardo da Vinci Programme;
- Rudolf Steiner;
- Medical Training Initiative;
- China Graduate Work Experience Programme;
- Voluntary workers;
- Named Researchers;
- Jewish Agency Employees.

Transitional arrangements

6.45 Any application made in the categories referred to at paragraphs 6.43 and 6.44 before this Statement of Changes comes into operation on 27 November 2008 will be considered under the Rules in force on 26 November 2008.

6.46 Migrants who are currently here as retired persons of independent means will be able to remain in that route and apply for extensions of stay or settlement as appropriate.

6.47 Migrants with leave in any of the other categories listed in paragraphs 6.43 or 6.44 will be able to stay in the UK until their leave expires, provided they continue to meet the conditions under which it was granted. After that, unless they qualify for settlement, they will need to apply for further leave either under the Points Based System or in another category.

6.48 Some migrants with leave in the categories listed in paragraphs 6.43 and 6.44 can currently apply for settlement (Private Servants in Diplomatic Households, Overseas Government Employees,

Rudolf Steiner). We will therefore allow people with valid leave in these categories to apply for an extension before 27 November 2008. Successful applicants under these transitional arrangements will be granted a period of leave to take them up to the threshold for being eligible to apply for settlement. They will then have to satisfy the settlement requirements in place at that time.

Consolidation

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

7. Consultation outcome

Points Based System

7.1 This is the latest of a number of instruments that implement the Points Based System. The proposals underpinning the new system were published in a Command Paper "*A Points-Based System: Making Migration Work for Britain*" (Cm 6741), published in March 2006. This followed a 16 week public consultation running from 19 July to 17 November 2005.

7.2 That consultation involved businesses, educational institutions, NHS trusts, employers and similar individuals and organisations. We received a total of 577 responses, though not all respondents answered every question in the consultation. The vast majority of respondents who expressed an opinion (239-6) agreed that a managed migration system could be used to deliver the workers that the UK needs, and the majority (153-91) agreed that the objectives of any new system should be focussed primarily on economic benefit to the UK. The majority (209-55) also supported the existence of a body to give advice on shortage occupations, and with the principle that employers and other sponsors had a responsibility to maintain the integrity of immigration control (196-42).

7.3 Since publishing the Command Paper, the United Kingdom Border Agency has worked closely with immigration stakeholders, including employers, the Trades Union Congress (TUC), the Immigration Law Practitioner's Association (ILPA), religious organisations, the governing bodies of the major sports and the arts and entertainment sectors to develop and refine the policy. This should not be taken as implying that every one of these organisations agrees with each of these changes. These have been informal consultations and it is not possible to provide a detailed analysis of the responses

7.4 Impact assessments were published alongside the Statements of Intent for Tiers 2 and 5. As part of these assessment policy proposals were sent on the 29 February 2008 to the following stakeholder groups for comments in addition to the informal consultations. We received views from a number of these organisations and gave them careful consideration in formulating the final policy:

- Equality and Human Rights Commission
- ILPA
- Joint Council for the Welfare of Immigrants
- Terrence Higgins Trust
- The Runnymede Trust
- Trades Union Congress

- Immigration Advisory Service
- Local Government Association
- Convention of Scottish Local Authorities
- Black Information Link
- The Inter Faith Network for the UK
- Office for Disability Issues
- Employers' Forum on Disability
- Women's National Commission
- A: gender
- Scottish Transgender Alliance
- Gender Identity Research and Education Society
- Press for Change
- Stonewall
- Age Positive.

Business and Special Visitors route

- 7.5 Our visitor consultation, published in December 2007, proposed three main categories of visitor – tourist, business and sponsored family. A total of 604 responses were received, mainly (54%) from individual members of the public. The consultation process included engagement with UK communities and foreign communities abroad. 70% of those who replied to the consultation agreed that a specific category of visa for business and special visitors should be created.
- 7.6 Opinion was that the activities business visitors have previously been able to carry out should continue, including attending meetings, conferences, marketing and conducting site visits. There was support for the availability of multiple entry visas for business visitors and for expedited entry clearance at port. We have continued to engage the business community to ensure that the new business visitor category allows legitimate business visits to continue.
- 7.7 Other new visitor categories will be introduced in 2009.

Increase in marriage visa age

- 7.8 The then Border and Immigration Agency of the Home Office consulted, by means of a consultation paper entitled *Marriage to Partners from Overseas*, published in December 2007, on possible new arrangements for marriage visas.
- 7.9 There were 89 responses to the question on whether the minimum age at which someone could sponsor or be sponsored as a spouse should be increased from 18 to 21. 45 agreed with increasing the minimum age, 41 disagreed and three expressed a mixed view.
- 7.10 Of the comments opposing the proposal, there were six main issues. 27 respondents thought the proposed change could be viewed as discrimination based on cultural difference. 15 respondents thought the change would not stop the majority of forced marriages, which affect people of all ages, but would impact unfairly on the majority of marriages that are not forced. 13 respondents felt that the change would penalise those who are genuine in their marriage intentions. 11 respondents felt that the change would constitute a breach of human rights. Four respondents

said that the age associated with adult maturity should stay consistent, and six respondents were concerned that young people would be taken overseas to marry before the age of 21 and/or that there may be a rush of marriages before the proposal became law.

- 7.11 The Government has given very careful consideration to these objections, but has concluded that they are outweighed by the arguments in favour of the change (see paras 6.31-6.34 (above)).

Specified standard for photographs supplied with applications

- 7.12 This is a minor, technical change and no specific consultation on it has been carried out.

Deletion of route for Retired Persons of Independent Means

- 7.13 The Government published its formal response to the consultation ‘*The Path to Citizenship: Next Steps in Reforming the Immigration System*’ on 14 July 2008.
- 7.14 We received 598 written responses to the consultation and 508 responses to the question on abolishing the retired persons of independent means route. 58% of respondents did not support abolition, 20% were in favour and 22% unsure.
- 7.15 The comments we received to this question as part of the consultation were varied: some respondents felt that migrants entering under this route were not a burden to society as they are required to support themselves; others felt that these migrants should not be entitled to access NHS care as they had not previously contributed through paying taxes and National Insurance. We received comments that the financial threshold for qualifying as a retired person of independent means should be increased whilst others highlighted the links that this route provides to family ties within the UK.
- 7.16 The Government has given very careful consideration to the consultation responses. However, having taken account of the limited take-up of this route with on average less than 20 applications for leave to enter the UK per year, as well as the goal behind our reforms we believe it is right to no longer permit entry as a retired person of independent means.

8. Guidance

PBS

- 8.1 Comprehensive guidance on Tiers 2 and 5 of the PBS has been published. The guidance explains to both migrants and employers what these changes mean to them. The guidance can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>

Other changes made by this Statement

- 8.2 Full guidance on the other changes made by this Statement will be made available to immigration practitioners will accompany the release of the Rules.

9. Impact

Points Based System

- 9.1 The impact on business, charities or voluntary bodies is likely to be positive. Those who bring migrants to the UK to work for them will benefit from the simpler, more streamlined migration processes that we are introducing. We expect the points criteria we are introducing in Tier 2 to ensure that the most productive migrants are selected, which will improve the overall productivity of UK businesses.
- 9.2 The impact on those parts of the public sector that recruit migrants will be similar. The more streamlined immigration processes should also be easier and more efficient to administer.

- 9.3 An impact assessment on Tiers 2 and 5 of the Points Based System was published on 6 May 2008 and can be found at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/managingourborders/pbsdocs/>

Business and Special Visitors route

- 9.4 The impact on business, charities or voluntary bodies is expected to be minimal – see Impact Assessment.
- 9.5 The impact on the public sector is expected to be minimal.
- 9.6 An Impact Assessment has been produced and can be found at www.ukba.homeoffice.gov.uk

Increase in the marriage visa age from 18-21

- 9.7 This will have no significant impact on businesses, charities, voluntary bodies or the public sector.
- 9.8 An impact assessment for all our proposed changes to the marriage visa rules, including this one, has been published and is available on the United Kingdom Border Agency website at www.ukba.homeoffice.gov.uk

Specified standard for photos supplied with applications

- 9.9 This will have no significant impact on businesses, charities, voluntary bodies or the public sector.
- 9.10 A separate impact assessment has not been prepared for this change in view of this.

Deletion of the route for retired persons of independent means.

- 9.11 This will have no significant impact on businesses, charities, voluntary bodies or the public sector.
- 9.12 A separate impact assessment has not been prepared for this change in view of this.

10. Regulating Small Business

Points Based System

- 10.1 These Immigration Rules apply to small businesses, who will (in the same way as any other sponsor) need to obtain a licence from the United Kingdom Border Agency, and issue Certificates of Sponsorship to prospective migrants, before those migrants will be able to come to the UK.
- 10.2 To minimise the impact of the new system on firms employing up to 20 people, the approach taken in these immigration rules is that we will be charging them a significantly lower fee when they apply for a licence to sponsor migrants. A small company or charity will pay a fee of £300 for a license to sponsor migrants in Tier 2, or £400 for a licence to sponsor in both Tier 2 and Tier 5. The fee for sponsors in these categories that do not count as a small company is £1000.
- 10.3 In accordance with the provisions in the Companies Act 2006, we define a “small company” for these purposes as one that meets two of the following three criteria:
- Has a turnover of not more than £5.6 million;
 - Has a balance sheet of not more than £2.8 million;
 - Has no more than 50 employees.

- 10.4 The basis for the final decision on what action to take to assist small business was our consultations with the Confederation of British Industry and the Federation of Small Businesses.

Business and Special Visitors

- 10.5 The business and special visitor visa applies to small business.
- 10.6 To minimise the impact of the requirements on firms employing up to 20 people, the approach taken is to clarify the requirements for business and special visitors, while minimising the changes made to current requirements.
- 10.7 Small businesses had the opportunity to respond to the visitor consultation and we have since included the Department for Business, Enterprise and Regulatory Reform in discussion of our proposals for the category.

Other changes

- 10.8 The other changes made by this statement will have no significant impact on small businesses.

11. Monitoring and review

- 11.1 All the changes introduced by this Statement will be continuously monitored as part of review of progress towards meeting PSA 3: “to ensure controlled, fair migration that protects the public and contributes to economic growth”. For further information please see the impact assessments for the individual changes.

12. Contact

- 12.1 All queries should be addressed to Mr Ben White on 0208 760 8635 or by email to Benjamin.White33@homeoffice.gsi.gov.uk