

**EXPLANATORY MEMORANDUM TO  
THE STATEMENT OF CHANGES IN IMMIGRATION RULES  
PRESENTED TO PARLIAMENT ON 13 MARCH 2014 (HC 1138)**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the Instrument**
  - 2.1. The purpose of these changes is to:
    - Expand the scope of the Tier 1 (Exceptional Talent) category to include the digital technology sector;
    - Introduce a small package of changes to the Tier 1 categories for Entrepreneurs, Graduate Entrepreneurs and Investors;
    - Allow Tier 2 (Intra-Company Transfer) and Tier 2 (General) applicants to be granted up to 5 years' leave (rather than up to 3 years') at a time;
    - Update minimum salary thresholds, appropriate salary rates for occupations and maintenance funds thresholds in Tier 2 and other categories;
    - Make other minor changes and updates to Points-Based System categories;
    - Delete from Appendix 1 those nationals or citizens of Bahrain who hold diplomatic and special passports issued by Bahrain when travelling to the UK for the purpose of a general visit in accordance with paragraph 41;
    - Add to Appendix 1 those nationals or citizens of Venezuela who hold a passport issued by the Republic of Venezuela that contains biometric information held in an electronic chip;
    - Amend the Immigration Rules for students applying for leave to remain on the Doctorate Extension Scheme within Tier 4, where an Academic Technology Approval Scheme certificate would normally be required and the course of study will be completed in less than 28 days of the date of application;
    - Add Oman, Qatar and United Arab Emirates (UAE) to Appendix H, and remove the exemption from the genuineness test that exists for applicants from countries and regions listed in Appendix H;
    - Clarify that the carer of a Tier 4 (Child) must be settled in the UK. This amendment will ensure a consistency of terminology across the rules;
    - Create a new 24 month category under the Government Authorised Exchange route for overseas government language placements;
    - Update the list of Tier 5 Government Authorised Exchange schemes;

- Amend the curtailment rules in Part 9 of the Immigration Rules to:
  - incorporate powers to cancel leave, currently contained in section 10 of the Immigration and Asylum Act 1999, into the curtailment Rules, ahead of changes to that legislation made by the Immigration Bill;
  - enable leave to be curtailed where a PBS sponsor notifies the Home Office that a migrant's period of study or work is due to end earlier than had been originally planned when leave to enter or remain was granted; and
  - make further minor changes to ensure that the wording and the intentions of the rules are clear and consistent.
- Ensure that family of members of HM forces are treated in the same way as family members of British citizens and people settled in the UK, by amending Appendix KoLL to clarify that partners and children of members of HM forces who, despite best efforts, prove unable to meet the knowledge of language and life requirement for settlement, may qualify for settlement with a lower level of speaking and listening skills after 15 years in the UK;
- Make minor changes and clarifications to the Immigration Rules relating to family life;
- Incorporate discretionary policies for civilian employees of NATO and the Australian Department of Defence and employees of firms under contract to NATO and make minor clarifications to the cash savings provisions which apply to the financial requirements in Appendix Armed Forces; and
- Make a minor change to reflect the fact that application forms are now published on the visas and immigration pages of the gov.uk website rather than the former United Kingdom Border Agency website.

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

- 3.1. The Committee is invited to note that this Statement of Changes is accompanied by amended guidance which is being published on the visas and immigration pages of the gov.uk website <https://www.gov.uk/visas-immigration> on the same date as these changes are laid before Parliament, namely 13 March 2014.

### **4. Legislative Context**

- 4.1. The Immigration Rules, as laid before Parliament by the Home Secretary, constitute a statement of practice to be followed in the administration of the Immigration Act 1971 for regulating entry into and the stay of persons in the United Kingdom.
- 4.2. This Statement of Changes in Immigration Rules will be incorporated into a consolidated version of the Immigration Rules, which can be found under the 'Policy and Law' page at <https://www.gov.uk/government/organisations/uk-visas-and-immigration> on the visas and immigration pages of the gov.uk

website where there are also copies of all the Statements of Changes in Immigration Rules issued since May 2003.

- 4.3 The change set out in paragraph 67 shall take effect on the day on which section 1 of the Immigration Act 2014 comes into force.
- 4.4 The changes made in paragraph 84 will come into effect on 5 May 2014.
- 4.5. The changes set out in paragraphs 170 to 172 and 174 to 196 of this statement shall take effect from 1 July 2014. However, if an applicant has made an application for entry clearance or leave before 1 July 2014, the application will be decided in accordance with the Rules in force on 30 June 2014. These changes update the maintenance fund requirements for Points-Based System applicants and their dependants. Implementing the changes on 1 July 2014 provides time for applicants to save up the necessary funds.
- 4.6. The other changes set out in this statement shall take effect from 6 April 2014.
- 4.7. However:
  - (a) With regard to the changes set out in paragraphs 36, 40 to 41, 44 to 45, 120 to 121, 129 to 130 and 236, if an applicant has made an application for entry clearance or leave on or after 6 April 2014 using a Certificate of Sponsorship that was assigned to him by his Sponsor before 6 April 2014, the application will be decided in accordance with the rules in force on 5 April 2014. These changes relate to salary thresholds and appropriate salary rates in Tier 2 of the Points-Based System. Implementing the changes in this way means sponsors will not need to re-assign Certificates of Sponsorship assigned before 6 April 2014 as a result of these changes.
  - (b) The changes in paragraphs 1, 25 to 26, 28, 30, 54, 55, 59 to 62, 95 to 98, 131 to 132, 137, 161 to 164, 169, 198 to 223, 232 to 234 and 242 to 246 shall apply to all applications decided on or after 6 April 2014. These changes relate to:
    - Widening the definition of “working for the same employer” to cover all relevant transfers under regulation 3(1) of the Transfer of Undertakings (Protection of Employment) Regulations 2006, or similar protection, not just those arising from mergers or takeovers;
    - Clarifications to existing rules in the Tier 1 (Entrepreneur) category – these changes apply to all decisions made on or after 6 April to avoid any doubt that they are existing requirements;
    - Relaxing the required declaration in bank letters relating to third party funding for Tier 1 (Entrepreneur) applicants – this change applies to all decisions made on or after 6 April to benefit those who have already applied before this date and whose applications have yet to be decided;
    - Changes to the salary thresholds for applications by sponsors for Certificates of Sponsorship under the Tier 2 (General) limit – this change needs to apply to all decisions made on or after 6 April because such Certificates of Sponsorship will be used by prospective Tier 2 Migrants to

make applications for entry clearance or leave to remain after 6 April, and will be subject to the new thresholds when they do so;

- Increased flexibility for Tier 2 Migrants in the transition from the SOC 2000 system to the SOC 2010 system – this change applies to all decisions made on or after 6 April to benefit those who have already applied before this date and whose applications have yet to be decided;
  - Inclusion of a reference to credit cards, which currently appears in guidance;
  - Enabling Tier 2 and Tier 5 Migrants who have transferred under the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 or similar protection to continue working;
  - Clarifying that an applicant for Indefinite Leave to Remain under paragraph 298 of the Immigration Rules can be granted a period of limited leave if they fail to qualify for Indefinite Leave to Remain because they are unable to meet the Knowledge of Language and Life in the UK requirement or because of minor criminality;
  - Clarifying which children applying under the adoption rules in Part 8 of the Immigration Rules are subject to the minimum income threshold requirement;
  - Clarifying that an applicant applying for limited leave to remain under the 5-year partner or parent route in Appendix FM only needs to meet the English Language requirement once; and
  - Clarifying the minimum income threshold requirements under Appendix FM, Appendix FM-SE and Appendix Armed Forces.
- (c) With regard to the other changes, if an applicant has made an application for entry clearance or leave before 6 April 2014, the application will be decided in accordance with the Rules in force on 5 April 2014.

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

- 5.1. This instrument applies to all of the United Kingdom.

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

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

## **7. Policy Background**

### **What is being done and why**

- 7.1. A summary of the changes contained in this Statement follows:

#### ***Changes relating to the validation rules***

- 7.2. Following the migration of the former United Kingdom Border Agency website content to the visas and immigration pages of the gov.uk website, a minor change is being made to reflect the new location of the online and paper forms. For consistency, the same change will be made to other sections of the rules that refer to the former location of the website.

### ***Changes relating to Tier 1 of the Points-Based System***

- 7.3. Tier 1 of the Points-Based System caters for high value migrants, and currently consists of five categories: Tier 1 (Exceptional Talent), Tier 1 (General) – closed except for extension applications, Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Graduate Entrepreneur). The Tier 1 (General) category was closed to new applicants in April 2011.
- 7.4. The Tier 1 (Exceptional Talent) category was introduced for those who lead the world or show exceptional promise in the fields of science, humanities, engineering and the arts, who have been endorsed by a Designated Competent Body and wish to work in the UK. The following changes are being made to this category:
- Tech City UK is joining the route as a Designated Competent Body to endorse applicants in the field of digital technology;
  - Adjustments to the annual limit are being made as a result of the above new Designated Competent Body. The overall limit of 1,000 places will remain. The limit is undersubscribed and there is sufficient space within it to accommodate places for Tech City UK;
  - Greater flexibility is being given to applicants, enabling them to apply from any country overseas (not just their own), to switch into the route from all other Tier 1 categories whilst in the UK, and for those already in the category to make extension applications whilst overseas;
  - An amendment is being made to the settlement rules, to allow applicants to amalgamate time spent in other Tier 1 and Tier 2 settlement routes towards the 5-year qualifying period.
- 7.5. The Tier 1 (General) category, in which applicants scored points for their qualifications, previous earnings, age and UK experience, was closed to new applicants in April 2011 but remains open for extension and settlement applications. The following changes are being made to this category:
- Changes are being made to signal the Government's intention to close the category for extension applications on 6 April 2015, and for settlement applications on 6 April 2018. This should give enough time for applicants who entered the category before its closure to apply for settlement if they can meet the requirements to qualify;
  - Provisions for settlement for those affected by the HSMP Forum judgments, previously set out in Appendix S, are being incorporated into the relevant sections in the main body of the Immigration Rules. Minor corrections and deletions of redundant sections are being made at the same time;

- The Association of International Accountants is being added to the list of recognised supervisory bodies for accountants from whose members evidence of UK earnings is accepted;
  - Redundant transitional arrangements linked to the opening of the category in 2008 are being deleted.
- 7.6. The Tier 1 (Entrepreneur) category caters for applicants coming to the UK to set up, take over, or otherwise be involved in the running of a business in the UK. This category has the potential to benefit the UK economy but has been heavily abused in recent years. The following changes are being made to this category:
- Applicants may qualify for this category on the basis of funds invested in their businesses up to 12 months before they apply. This is being widened to 24 months for applicants switching from the Tier 1 (Graduate Entrepreneur) category, which is designed to feed into Tier 1 (Entrepreneur) and in which leave may be granted for up to two years in total;
  - Minor changes are being made to refine the rules around funds being spent by the business and provisions for entrepreneurial teams;
  - Minor updates are being made to evidential requirements. These include removing the need for third party declarations to be provided when funds are held in a joint account with the applicant's spouse or partner, requiring lawyers providing declarations to be independent of those providing investment funds, changing the contents of third party funding declarations from banks to better reflect banking practice, and requiring business accounts produced as evidence of investment to meet statutory requirements;
  - Wording is being added to emphasise more explicitly that applicants must provide all the relevant specified evidence, following attempts by some representatives to re-interpret parts of Appendix A differently;
  - A minimum age requirement of 16, and child protection rules for applicants under the age of 18, are being added, mirroring the requirements in other categories.
- 7.7. The Tier 1 (Investor) category caters for high net worth individuals making a substantial financial investment to the UK. The following changes are being made to this category:
- Investors are required to invest their funds within three months of entering the UK in this category. At present, if they fail to do so they cannot be granted extensions. A change is being made to allow extensions to be granted if there are exceptionally compelling reasons for the delay in investing, providing the reasons were unforeseeable and outside the investor's control. Investors who do not invest within the first three months may still have their leave curtailed and will have to wait for longer before they become eligible to apply for settlement;
  - As with Tier 1 (Entrepreneur), a minimum age requirement of 16, and child protection rules for applicants under the age of 18, are being added, mirroring

the requirements in other categories. Applicants aged 16 will still be required to be in control of their investments, as at present.

- 7.8. The Tier 1 (Graduate Entrepreneur) category caters for graduates who have been endorsed by UK Higher Education Institutions or by UK Trade and Investment to establish one or more businesses in the UK. The following changes are being made to this category:
- The requirement for applicants to have obtained their degrees within the last 12 months or from a particular institution is being removed. This will be of particular benefit to overseas applicants, but will also benefit those who have been undertaking research in the UK since graduating. It will enable institutions to endorse graduates from other institutions;
  - Consequential changes are being made to the evidence required, so that evidence of qualifications is needed where the endorsement is from a different institution to that which awarded the qualification;
  - The allocation of places within the 2,000 limit is being adjusted, following feedback and take-up of places over the past year. The restriction of some places to MBA graduates only is being removed, so that there will be 1,900 places available to graduates of any subject from UK institutions. 100 places will be available to global graduate entrepreneurs identified by UK Trade and Investment, as in the last year;
  - Applicants can have a maximum of two grants of leave in this category. A change is being made to allow the second grant to be with a different endorsing body than the first, to increase flexibility for applicants.

***Changes relating to Tier 2 of the Points-Based System***

- 7.9. Tier 2 of the Points-Based System caters for migrant workers with an offer of a skilled job from a licensed employer. There are four overall categories: Intra-Company Transfer (ICT), General, Minister of Religion, and Sportsperson. The following changes are being made to Tier 2:
- A change is being made to allow Tier 2 (Intra-Company Transfer) and Tier 2 (General) applicants to be granted up to 5 years’ leave (rather than up to 3 years’) on payment of a higher fee. This will increase flexibility for applicants and their Sponsors. At the same time, the rules relating to grant periods are being reworded to make them clearer for applicants and caseworkers;
  - Annual updates are being made to the minimum salary thresholds and appropriate salary rates for individual occupations (as set out in codes of practice). These updates are in line with changes in average weekly earnings for resident workers (a 0.9% annual increase based on the 3 months ending November 2013), rounded to the nearest £100. The appropriate salary rates also apply to settlement applications by work permit holders. The revised salary thresholds are as follows:

Category	Criteria	Current threshold	New threshold

Tier 2 (General)	Jobs which qualify for Tier 2 (General)	£20,300	£20,500
Tier 2 (General)	Jobs which are exempt from advertising in Jobcentre Plus (or Jobcentre Online if the job is based in Northern Ireland)	£71,000	£71,600
Tier 2 (General)	Jobs which are exempt from the annual limit and the Resident Labour Market Test	£152,100	£153,500
Tier 2 (Intra-Company Transfer)	Jobs which qualify for the Short Term Staff, Skills Transfer or Graduate Trainee categories (maximum stay either six months or one year)	£24,300	£24,500
Tier 2 (Intra-Company Transfer)	Jobs which qualify for the Long Term Staff category (maximum stay five years)	£40,600	£41,000
Tier 2 (Intra-Company Transfer)	Jobs which qualify for transfers of up to nine years	£152,100	£153,500
Tier 2 (General) and Tier 2 (Sports-person)	Earnings which qualify for settlement (those working in PhD-level or shortage occupations are exempt)	£35,500 (for settlement applications made on or after 6th April 2018)	£35,800 (for settlement applications made on or after 6th April 2019)

- An exemption from the Resident Labour Market Test in Tier 2 (General) is being added for continuing employees of Higher Education Institutions returning from a period of academic leave;
- A temporary exemption from the requirement to advertise via Jobcentre Plus (or Jobcentre Online in Northern Ireland) exists for NHS positions advertised on NHS Jobs. This exemption was due to expire on 6 April 2014 but is being extended to 1 October 2014 while ongoing technical issues are resolved;
- A flexibility is being added to ease the transition from the Standard Occupational Classification (SOC) 2000 system to the SOC 2010 system. This will allow extension applications with no Resident Labour Market Test, where the applicant is moving from any SOC 2000 code to any SOC 2010 code, providing the change is due solely to the change between the two systems and not due to a change in the applicant's job. Currently, such transitions are



restricted to a prescribed table. The table will remain for cases where the applicant's job changes but remains within the same occupation;

- Confirmation is being added that salaries for skilled chefs applying using the Shortage Occupation List cannot be pro-rated downwards for different working patterns. This is in line with the Migration Advisory Committee's recommendations and is currently stated in published guidance.

### ***Changes relating to dependants of Points-Based System Migrants***

- 7.10. A change is being made to restrict dependants of Points-Based System Migrants from employment as a professional sports player or coach. This reflects restrictions in other categories of the Immigration Rules. The restrictions are designed to prevent applicants from circumventing the requirement to be endorsed by the relevant UK sports governing body in the dedicated Tier 2 and Tier 5 categories.
- 7.11. Corrections are being made to enforce the intention that only dependants of individuals who qualified for settlement under the Points-Based System can apply for settlement as dependants of Points-Based System Migrants. Previously the Immigration Rules allowed dependents of those who qualified for settlement on the basis of long residence to also apply. The change will mean such dependants will need to apply for leave to remain under the rules for family members in Appendix FM before they can qualify for settlement.
- 7.12. An omission is being corrected to allow dependant children of settled Points-Based System Migrants to apply for further temporary leave if they cannot qualify for settlement themselves (for example, if they have turned 18 while they have been in the UK and have not passed the knowledge of language and life requirement).

### ***Changes relating to Tier 4 of the Points Based System***

- 7.13 An amendment removing the requirement to obtain an Academic Technology Approval Scheme certificate for those Tier 4 students applying for leave on the Doctorate Extension Scheme where their course of study would require an Academic Technology Approval Scheme certificate to be obtained, where the course will be completed in less than 28 days of the date of application.
- 7.14 Appendix H of the Immigration Rules lists the countries and regions from which applicants are subject to different documentary requirements under Tier 4 of the Points Based System. The Home Office has reviewed the list, re-assessing countries against a range of risk and compliance criteria, and concluded that three additional countries merit addition to the list on the basis of the high levels of compliance of their students: Oman, Qatar and United Arab Emirates (UAE). At the same time the Home Office is removing the exemption from the genuineness test that exists for applicants from countries and regions listed in Appendix H so that UK Visas and Immigration officials can assess whether an applicant is a genuine student regardless of the nationality of the applicant.

### ***Changes relating to Tier 5 Government Authorised Exchange (GAE) route***

- 7.15 Tier 5 of the Points-Based System caters for youth mobility and temporary workers coming for primarily non-economic purposes, and consists of two categories: Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Workers). The Temporary Workers category consists of five sub-categories: Creative and Sporting, Charity Workers, Religious Workers, Government Authorised Exchange, and International Agreement. Applicants must have a Tier 5 Sponsor, which is usually their UK employer. The Government Authorised Exchange route enables people to come to the UK to share knowledge, skills and gain work experience through individual schemes.
- 7.16 A new 24 month category is being created under the Government Authorised Exchange route for overseas government language placements. This category will enable language teachers who are sponsored by their overseas government to carry out teaching placements at UK institutions through established government to government partnership agreements.
- 7.17 Routine updates are being made to the list of Tier 5 Government Authorised Exchange Schemes.

***Cross-cutting PBS changes***

- 7.18. Provisions for the loan of sports players in Tiers 2 and 5, currently set out in published guidance for Sponsors, are being incorporated into the Immigration Rules as a matter of good practice and legal transparency. The provisions are being widened to cover all sports whose UK governing bodies permit loans (at present they only cover professional footballers).
- 7.19. GB Taekwondo is being added to the list of sports governing bodies which can endorse sportspeople in Tiers 2 and 5.
- 7.20. The maintenance funds thresholds for Points-Based System Migrants and their dependants are being updated in line with changes to the cost of living since they were last updated in 2012. The updates for work routes (Tiers 1, 2 and 5) are based on Consumer Price Index inflation since 2012, and the updates for the student route (Tier 4) are based on the rise in the maximum package of grants and loans available to home students since 2012. The revised thresholds are as follows:

<b>Category</b>	<b>Existing level of funds required</b>	<b>New level of funds required</b>
Tier 1 (Entrepreneur) Migrants	<ul style="list-style-type: none"> <li>• £3,100 for entry clearance applications</li> <li>• £900 for leave to remain applications</li> </ul>	<ul style="list-style-type: none"> <li>• £3,310 for entry clearance applications</li> <li>• £945 for leave to remain applications</li> </ul>
Tier 1 (Graduate Entrepreneur) Migrants	<ul style="list-style-type: none"> <li>• £1,800 for entry clearance</li> </ul>	<ul style="list-style-type: none"> <li>• £1,890 for entry clearance</li> </ul>

	<p>applications</p> <ul style="list-style-type: none"> <li>• £900 for leave to remain applications</li> </ul>	<p>applications</p> <ul style="list-style-type: none"> <li>• £945 for leave to remain applications</li> </ul>
Tier 1 (General) Migrants, Tier 2 Migrants and Tier 5 (Temporary Worker) Migrants	<ul style="list-style-type: none"> <li>• £900</li> </ul>	<ul style="list-style-type: none"> <li>• £945</li> </ul>
Tier 5 (Youth Mobility Scheme) Migrants	<ul style="list-style-type: none"> <li>• £1,800</li> </ul>	<ul style="list-style-type: none"> <li>• £1,890</li> </ul>
Dependants of Tier 1, 2 and 5 Migrants	<ul style="list-style-type: none"> <li>• £1,800 for dependants of Tier 1 (Entrepreneur) Migrants and Tier 1 (General) Migrants who have been in the UK for less than 12 months</li> <li>• £1,200 for dependants of Tier 1 (Graduate Entrepreneur) Migrants who have been in the UK for less than 12 months</li> <li>• £600 for all other applicants</li> </ul>	<ul style="list-style-type: none"> <li>• £1,890 for dependants of Tier 1 (Entrepreneur) Migrants and Tier 1 (General) Migrants who have been in the UK for less than 12 months</li> <li>• £1,260 for dependants of Tier 1 (Graduate Entrepreneur) Migrants who have been in the UK for less than 12 months</li> <li>• £630 for all other applicants</li> </ul>
Tier 4 (General), if studying in inner London	<ul style="list-style-type: none"> <li>• £1,000 per month for up to nine months, for entry clearance applications</li> <li>• £1000 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>	<ul style="list-style-type: none"> <li>• £1,020 per month for up to nine months, for entry clearance applications</li> <li>• £1,020 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>
Tier 4 (General), if studying in outer London or elsewhere in the UK	<ul style="list-style-type: none"> <li>• £800 per month for up to nine months for entry clearance</li> </ul>	<ul style="list-style-type: none"> <li>• £820 per month for up to nine months for entry clearance</li> </ul>

	<p>applications</p> <ul style="list-style-type: none"> <li>• £800 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>	<p>applications</p> <ul style="list-style-type: none"> <li>• £820 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>
Tier 4 (Child), staying with carer / close relative	<ul style="list-style-type: none"> <li>• £550 per month for up to nine months</li> </ul>	<ul style="list-style-type: none"> <li>• £560 per month for up to nine months</li> </ul>
Tier 4 (Child), under 12 accompanied by a parent	<ul style="list-style-type: none"> <li>• £1,500 per month for up to nine months</li> <li>• £600 per month for up to nine months, for each additional child</li> </ul>	<ul style="list-style-type: none"> <li>• £1,535 per month for up to nine months</li> <li>• £615 per month for up to nine months, for each additional child</li> </ul>
Tier 4 (Child), aged 16 or 17, living independently and studying in inner London	<ul style="list-style-type: none"> <li>• £900 per month for up to nine months for entry clearance applications</li> <li>• £900 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>	<ul style="list-style-type: none"> <li>• £920 per month for up to nine months for entry clearance applications</li> <li>• £920 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>
Tier 4 (Child), aged 16 or 17, living independently and studying in outer London or elsewhere in the UK	<ul style="list-style-type: none"> <li>• £700 per month for up to nine months for entry clearance applications</li> <li>• £700 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>	<ul style="list-style-type: none"> <li>• £715 per month for up to nine months for entry clearance applications</li> <li>• £715 per month for up to two months where the applicant has an established presence in the UK, for leave to remain applications</li> </ul>
Tier 4 (Child), under 16 or not living independently	<ul style="list-style-type: none"> <li>• The intended carer must show £550 per month for up to nine</li> </ul>	<ul style="list-style-type: none"> <li>• The intended carer must show £560 per month for up to nine</li> </ul>

	months	months
Tier 4	<ul style="list-style-type: none"> <li>Where the applicant pays a deposit to the Tier 4 sponsor for accommodation, a maximum of £1000 can be offset against the maintenance requirement</li> </ul>	<ul style="list-style-type: none"> <li>Where the applicant pays a deposit to the Tier 4 sponsor for accommodation, a maximum of £1020 can be offset against the maintenance requirement</li> </ul>
Tier 4 (General) dependants, where the student is studying in inner London	<ul style="list-style-type: none"> <li>£600 per month for up to nine months</li> </ul>	<ul style="list-style-type: none"> <li>£615 per month for up to nine months</li> </ul>
Tier 4 (General) dependants, where the student is studying in outer London or elsewhere in the UK	<ul style="list-style-type: none"> <li>£450 per month for up to nine months</li> </ul>	<ul style="list-style-type: none"> <li>£460 per month for up to nine months</li> </ul>

- 7.21. “Premier Bank Limited” is being added to the list of financial institutions in Bangladesh from which statements are accepted. This is a routine change which reflects the Home Office’s current intelligence on which institutions satisfactorily verify such statements.
- 7.22. A reference to credit cards, currently stated in published guidance is being added. This states that credit cards are not acceptable as evidence of available maintenance funds.
- 7.23. A minor change is being made to the definition of “working for the same employer” to cover all cases where a Tier 2 or Tier 5 Migrant’s employment has transferred under arrangements covered by the Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 or similar protection to continue in the same job.
- 7.24. A handful of minor drafting errors are being corrected.

***Changes to visitor rules***

- 7.25. Minor updates are being made to the list of Permit Free Festivals for entertainer visitors which are set out in Appendix R of the Immigration Rules.

***Changes relating to general grounds for refusal***

- 7.26. The changes to the curtailment rules support the wider immigration reforms set out in the Immigration Bill. Changes to the Immigration and Asylum Act 1999 mean that cases that are currently subject to a removal decision under section 10(1)(b) and (c) of the Immigration and Asylum Act 1999 (which invalidates any extant leave) must have their leave curtailed to trigger

removal. The changes also enable the Home Office to curtail leave where a Points Based System (PBS) sponsor notifies the Home Office that a migrant's period of study or work is due to end earlier than had been originally planned when leave to enter or remain was granted. The remaining changes ensure that the wording and the intentions of the rules are clear and consistent.

### ***Change relating to Appendix 1 – Visa Requirements***

- 7.27 The changes to the visit visa regime for Bahraini Diplomatic and Special passport holders was agreed by the Home Secretary in December 2013.
- 7.28 The UK values close co-operation with Bahrain and these amendments to the UK's visa requirements will allow greater flexibility and ease of travel for those who are actively engaged in developing the ties between and who are supporting the mutual interests of both Governments.
- 7.29 The changes will be of interest in the country concerned.
- 7.30 These changes reflect a need to deepen relationships between the UK and Bahrain whilst ensuring that the security of the UK border is upheld.
- 7.31 In 2009 the Government introduced a visa regime for persons holding a Venezuelan passport that did not contain biometric information held in an electronic chip. The Government has now decided to expand the visa regime to all Venezuelan passports holders. This decision does not reflect the value we place on the United Kingdom's relationship with Venezuela.

### ***Changes relating to Appendix Armed Forces***

- 7.32 In order to comply with the Supreme Court's judgment in *Munir*, we are incorporating into the Immigration Rules discretionary policies for civilian employees of NATO and the Australian Department of Defence, and employees of firms under contract to NATO. We are also making minor clarifications to the cash savings provisions which apply to the financial requirement in Appendix Armed Forces.

### ***Changes to the Immigration Rules relating to family life***

- 7.33 The following minor changes and clarifications are being made to the Immigration Rules relating to family life:
- To make clear that non-EEA national fiancé(e)s and proposed civil partners of EEA nationals who do not have a right of permanent residence in the UK cannot apply for entry clearance as a partner under Appendix FM to the Immigration Rules. Such persons cannot enter the UK under the EEA Regulations unless they have been in a durable relationship with the EEA national for at least 2 years, which is comparable to the requirement for entry clearance as an unmarried or same sex partner under Appendix FM;
  - To clarify that an applicant for Indefinite Leave to Remain under paragraph 298 of the Immigration Rules can be granted a period of limited leave if they fail to qualify for Indefinite Leave to Remain because they are unable to meet

the Knowledge of Language and Life in the UK requirement or because of minor criminality;

- To clarify which children applying under the adoption rules in Part 8 of the Immigration Rules are subject to the minimum income threshold requirement;
- To make clear that an applicant applying for limited leave to remain under the 5-year partner or parent route in Appendix FM only needs to meet the English language requirement once and does not need to demonstrate they meet the requirement every time they apply for limited leave under those routes;
- In respect of the minimum income threshold requirement under Appendix FM and Appendix FM-SE:
  - To count maintenance payments from a former partner of the sponsor, as well as of the applicant;
  - To clarify the manner in which cash income can be counted;
  - To provide that tips and gratuities distributed by an employer via a *tronc* scheme can be counted as employment income;
  - To provide for overseas maternity pay, paternity pay and adoption pay to be counted;
  - To update references to the VAT registration threshold to reflect the current HMRC threshold of £79,000;
  - To provide for ongoing payments from insurance companies and legal settlements to be count as non-employment income.
- To require that the specified medical evidence to be provided by an adult dependent relative applicant under Appendix FM come from an independent source;
- Other minor technical changes to Appendix FM and Appendix FM-SE.

### ***Changes relating to Appendix KOLL – Knowledge of language and life***

7.34 To ensure that family of members of HM forces are treated in the same way as family members of British citizens and people settled in the UK, we are amending Appendix KoLL to clarify that partners and children of members of HM forces who, despite best efforts, prove unable to meet the knowledge of language and life requirement for settlement, may qualify for settlement with a lower level of speaking and listening skills after 15 years in the UK.

## **8. Consultation**

- 8.1. The new and existing Designated Competent Bodies were consulted on the changes to Tier 1 (Exceptional Talent).
- 8.2. With regard to updates to the codes of practice for skilled workers, the MAC made a number of recommendations for annual updates in its report published on 17 October 2012. The MAC carried out its own consultation when

preparing this report. The updates in these changes are in line with the MAC's recommendations. The report is available on the visas and immigration pages of the gov.uk website at:

<https://www.gov.uk/government/publications/analysis-of-the-points-based-system-tier-2-at-nqf-level-6>

- 8.3 The changes in this Statement of Changes about Bahrain have not been subject to consultation as this would be disproportionate to the minor nature of the changes and/or they are necessary for the reasons set out in the Statement of Intent to reinforce existing policy.
- 8.4 The Government of Venezuela is aware that the change is being introduced.
- 8.5 There has not been a formal public consultation exercise on the curtailment rules changes that arise from the Immigration Bill provisions. However, interested parties were offered an opportunity to comment to Parliament during the passage of the Immigration Bill. During that process the Immigration Law Practitioners' Association, the International Organization for Migration and Liberty raised concerns that detail on the removal of family members was not on the face of the legislation and that family members may be removed without first receiving notice of the removal. A Government amendment has been made to address those concerns and it should also be noted that in the meantime any notice of curtailment must be served in accordance with the Immigration (Leave to Enter or Remain) Order 2000 or the Immigration (Notices) Regulations 2003, as appropriate.
- 8.6 The other changes in this Statement are either designed to tackle abuse, or are limited to minor updates, clarifications and corrections. They have not been subject to consultation as this would be disproportionate given the minor nature of the changes.

## **9. Guidance**

- 9.1. When the changes are approved the guidance will be updated and placed on the Home Office website. The amended guidance will also be placed on the regional Foreign & Commonwealth Office websites if appropriate.

## **10. Impact**

- 10.1. These changes will have limited or no impact on business, charities, the public sector or voluntary bodies, such that an impact assessment is unnecessary.

## **11. Regulating small business**

- 11.1. The changes to Tier 2 and Tier 5 of the Points-Based System will apply to small businesses that are Tier 2 or Tier 5 Sponsors. They will not have a significant or disproportionate impact on small businesses.

## **12. Monitoring and review**

- 12.1. The review clauses at the beginning of this Statement of Changes require the Secretary of State to review the operation and effect of all of the relevant Immigration Rules, including any Rules amended or added by the changes in



this Statement and lay a report before Parliament within five years of 6 April 2012 and within every five years after that. Following each review the Secretary of State will decide whether the relevant Immigration Rules should remain as they are, be revoked or be amended. A further Statement of Changes would be needed to revoke or amend the relevant Rules.

### **13. Contact**

- 13.1. Queries should be directed to the Home Office's immigration enquiry bureau on 0870 606 7766, or as per the Contact page on the visas and immigration pages of the gov.UK website at <https://www.gov.uk/visas-immigration>
- 13.2. Specific written queries relating to this Statement of Changes should be directed to [StatementofChanges@homeoffice.gsi.gov.uk](mailto:StatementofChanges@homeoffice.gsi.gov.uk). Please note that this mailbox is only for Parliamentary use and specific technical queries regarding the drafting of this Statement of Changes. It is not a contact point for general enquiries. Queries to this e-mail address from outside Parliament about other immigration issues, including how these changes affect applications, will not receive a response.
- 13.3. A copy of this Statement of Changes can be found on the visas and immigration pages of the gov.UK website at [www.gov.uk/government/collections/immigration-rules-statement-of-changes](http://www.gov.uk/government/collections/immigration-rules-statement-of-changes)





