



Home Office

**UK Border
Agency**

TIER 2

Tier 2 of the Points Based System – Policy Guidance

This guidance
is to be used
for applications
made on or after
31 March 2009

CONTENTS

Introduction	4
General Guidance to Applicants of the Points Based System	5
Self-assessment	5
Documents we require	5
Verification and other checks.....	6
Additional evidence for sponsored students	8
Administrative review (entry clearance applications only)	8
Appeal rights (in-country applications).....	8
Date of application	8
Sponsorship	9
The role of the sponsor	9
The certificate of sponsorship.....	9
Sponsorship duties	10
Sponsor's licence.....	11
Termination of employment.....	13
Visiting officer visits	13
Tier 2 Overview of Terms and Conditions	14
Points Scoring	18
Points available for Tier 2 (General) and Tier 2 (Intra company Transfer).....	19
Attributes for Tier 2 (General) and Tier 2 (Intra company transfers)	22
Shortage occupations	22
Resident labour market test.....	22
Switching from a post study category	22
Intra Company Transfers	23
Qualifications	25
Prospective earnings	27

Tier 2 (Sportsperson)	29
Tier 2 (Minister of Religion)	30
English Language Requirement	31
English language assessment	31
National of a majority English speaking country	32
English language test	32
Degree taught in English	33
Maintenance (Funds)	36
Maintenance requirement	36
Age Requirements	39
Supplementary Employment	39
Secondary Employment	39
Change of Employment	39
Change of Circumstances	39
Multiple Periods of Employment in the United Kingdom	40
Absences from the United Kingdom	40
Transitional Arrangements	41
Transitional arrangements - Tier 2 (General).....	41
Change of employment under the transitional arrangements.....	42
Transitional arrangements - Tier 2 (Intra Company Transfer).....	42
Transitional arrangements - Tier 2 (Minister of Religion)	42
Transitional arrangements - Tier 2 (Sportsperson)	42
Transitional arrangements - senior care workers under Tier 2 (General) and Tier 2 (Intra Company Transfer)	42
Transitional arrangements - established entertainers under Tier 2 (General) and Tier 2 (Intra Company Transfer).....	43
Annex A: Administrative Review	44

INTRODUCTION

1. This document provides policy guidance on Tier 2 (Skilled Workers) of the points based system. Please note that it reflects policy at the time of publication and is subject to change. For the purpose of these guidance notes, the terms 'we', 'us' and 'our' refer to the UK Border Agency. It should be read in conjunction with the relevant paragraphs of the Immigration Rules.

2. An applicant making an application from outside the United Kingdom for entry clearance should go to the International Group website (formerly known as UK Visas) at www.ukvisas.gov.uk/en/howtoapply/vafs, where he/she can find the forms and more information on how to fill them in.

3. An applicant making an application from inside the United Kingdom for an initial grant of leave, an extension of his/her existing leave or a change of employment should go to our website to find the application form at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/>.

4. Under Tier 2 (Skilled Workers) an applicant must have both a sponsor and a valid certificate of sponsorship before applying.

5. Tier 2 (Skilled Workers) has four categories:

- General – for people coming to the United Kingdom with a job offer to fill a gap that cannot be filled by a settled worker. This category is also for applicants coming to fill shortage occupations.
- Intra Company Transfers - for employees of multi-national companies who are being transferred by an overseas employer to a skilled job in a United Kingdom based branch of the organisation.
- Sportsperson - for elite sportspeople and coaches whose employment will make a significant contribution to the development of their sport at the highest level.

- Ministers of Religion – for those people coming to fill a vacancy as a Minister of Religion, Missionary, or Member of a Religious Order.

6. Applicants in all the points based system categories will be subject to General Grounds for Refusal. This means that even if the applicant qualifies under the specific category of the Rules under which he/she is applying to come here, there may be other reasons (such as his/her previous immigration history), that may lead to the application being refused. Further information on General Grounds for Refusal is available on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter9/>.

GENERAL GUIDANCE TO APPLICANTS OF THE POINTS BASED SYSTEM

Self-assessment

7. We have a points based calculator that enables an applicant to self-assess whether he/she is likely to score enough points for his/her application to succeed.

8. The points based calculator is on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>.

9. An applicant can enter details, appropriate to his/her tier and category on:

- qualifications;
- prospective earnings;
- whether the intended employment is in a shortage occupation;
- whether he/she is the subject of an Intra Company Transfer;
- whether his/her prospective employer has completed a resident labour market test;
- whether he/she is switching from a post study category¹;
- whether he/she has a valid certificate of sponsorship;
- his/her English language ability;
- whether he/she has enough money to support himself/herself in the United Kingdom.

10. The points based calculator will provide a summary of the information an applicant enters, the points awarded for each section, and the overall score.

11. Under Tier 2 (Skilled Workers) an applicant must score:

- at least 50 points for attributes (Appendix A of the Immigration Rules); and

- 10 points for English language (Appendix B of the Immigration Rules); and
- 10 points for maintenance (funds) (Appendix C of the Immigration Rules);
- If an applicant is applying for permission to come to the United Kingdom under Tier 2 (Intra Company Transfer), or extending his/her permission to stay, he/she does not have to meet the English language requirement if his/her extension does not take the length of stay to more than three years.

12. The results of the points based calculator show the possible points an applicant might score and does not guarantee the application will be successful. We make a decision after receiving the full application and the evidence to support it.

Documents we require

13. The applicant must ensure he/she provides all of the necessary supporting documents at the time he/she sends us the application. We will only accept the documents specified in this guidance.

14. If the applicant does not provide the specified documents, we will not contact him/her to ask for them. Therefore, if the applicant fails to send the correct documents we may refuse the application.

15. Any documentary evidence that the applicant provides must be the original (not a copy) unless we say otherwise.

16. Where a document is not in English or Welsh, the original must be accompanied by a fully certified translation by a professional translator. This translation must include details of the translator's credentials and confirmation that it is an accurate translation of the original document. It must also be dated and include the original signature of the translator.

17. We only need evidence that is directly relevant to the application, as set out in this guidance. We will not consider unrelated evidence when calculating the points score.

¹ For the purpose of this guidance, a post study category includes Tier 1: Post Study, Fresh Talent Working in Scotland Scheme, and International Graduate Scheme (formally known as Science and Engineering Graduate Scheme).

Verification and other checks

18. We aim to consider applications quickly. However, we must also be confident that applications meet the requirements of the Immigration Rules, and that the information an applicant provides is a true reflection of his/her background.

19. We will ask for a variety of verifiable documents to enable us to consider the application.

20. We may want to check the supporting documents an applicant sends with his/her application. Therefore, he/she must ensure that all the evidence comes from a source that can be clearly identified and that it can be independently confirmed as being genuine.

21. There are two situations in which we will undertake a check:

- **Verification checks** – where we have reasonable doubts that the documents are genuine; or
- **Other checks** – where we carry out further checks, for example, where we have doubts about an application or the documents sent with the application but the doubts are not serious enough for us to make a verification check.

Verification checks

22. Where we have **reasonable doubts** that a specified document is genuine we may want to verify the document with an independent person or government agency.

23. The purpose of these checks is to ensure that the document provided is genuine and accurately reflects statements made in the application. If the document is being used as evidence to score points, we also want to ensure that it entitles the applicant to claim those points.

24. Verification may delay our decision on an application so we will only do it when there are clear reasons for it.

Reasonable doubt

25. There are many reasons why we may doubt that a specified document is genuine and what we consider to be a reasonable doubt will depend on an individual application. However, our judgments will be based on the facts we have.

Outcome of verification check

26. There are three possible outcomes of a verification check:

- **Document confirmed as genuine.** If we can conclude that the document is genuine, we will consider the application as normal.
- **Document confirmed as false.** If we can conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document. Where we confirm that a document is false it will be retained by the UK Border Agency and is likely to jeopardise any future application.
- **Verification check inconclusive.** If we cannot verify that the document is either genuine or false then we will ignore it as evidence for scoring points. If the applicant has sent other specified documents as evidence for scoring the relevant points, we will consider these as normal. If the applicant has not sent any other documents, we will award zero points in that area.

Refusing applications without making verification checks

27. We may refuse an application without making verification checks in two circumstances:

- Where we are concerned about a piece of evidence but would in any event refuse the application for other reasons, those reasons will form the basis of the refusal. We will not make verification checks in these circumstances. However, we will always verify passports if we doubt they are genuine.
- Where there is evidence that proves a particular document is false. If we can confirm that a document is false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document.

Other checks

28. We will make other checks where, for example we have doubts about an application or the documents sent with the application but these are not serious enough for us to make a verification check.

29. These checks may delay our decision on an application so we will only make them when we have clear reasons to do so.

Extra checks

30. Sometimes we will have suspicions about a document, but they will not be enough to make us doubt that it is genuine. For example, this may be because previous verification checks have found that some supporting evidence is invalid and some is genuine, or where evidence provided contradicts information we already have. In these cases, we may carry out more checks.

Outcome of other checks

31. There are four possible outcomes of these checks:

- **Document confirmed as genuine.** If we can conclude that the document is genuine, we will consider the application as normal.

- **Document confirmed as false.** If we can conclude that the document is false, we will refuse the application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse the application for more than one reason. For example, if an applicant sends us a bank statement to show that he/she has enough funds available, and we have evidence that the statement is false, we will refuse the application because the applicant does not meet the funds requirement and because he/she has sent a false document. Where we confirm that a document is false it will be retained by the UK Border Agency and is likely to jeopardise any future application.

- **Check inconclusive.** If we cannot verify that the document is either genuine or false then we will consider the application as if it is the document is genuine.

- **Check gives us cause to have reasonable doubt about the genuineness of a specified document.** If we cannot verify that the document is either genuine or false but as a result of the checks we find other reasons to doubt the genuineness of a particular specified document, we may decide to make a verification check.

Procedure for verification and other checks

32. The procedures for both verification checks and other checks will usually be similar and will vary from case-to-case, but they may involve:

- checking the details or genuineness of documents with employers, the relevant embassy or high commission, other government departments (in the United Kingdom and overseas); and
- checking the accuracy and authenticity of documents with banks, universities and professional bodies.

Standard procedure

33. We will use a standard form to record the results of our enquiries, to ensure that we record any feedback consistently.

34. If we cannot obtain an immediate answer to enquiries, we will normally wait for up to a maximum of four weeks for the necessary information.

35. Our compliance team may visit the applicant's employer or educational institution (if the applicant is a student) before we make a decision on the application.

Additional evidence for sponsored students

36. For the purposes of this section of the guidance, 'sponsored' means wholly supported by an award that covers both fees and living costs.

37. An applicant who has had permission to be in the United Kingdom in one of the following categories, within the last 12 months, may have been sponsored in his/her studies by a Government or an international scholarship agency:

- Tier 4; or
- student; or
- student nurse; or
- student re-sitting an examination; or
- student writing up a thesis; or
- postgraduate doctor or dentist.

If the applicant is currently sponsored by a Government or an international scholarship agency, or such sponsorship ended within the past 12 months of this application being made, the applicant must provide us with the sponsor's unconditional consent in writing to us, giving the applicant permission to remain in or re-enter the United Kingdom. If the sponsor does not give unconditional consent or gives permission for a limited time, we will refuse the application.

38. The evidence must be original, on the official letter-headed paper or stationery of the organisation. It must have been issued by an authorised official of that organisation.

39. If an applicant has received private sponsorship during his/her studies (for example from an employer or relative), we do not require the sponsor's consent.

40. For more advice on sponsored students, see **chapter 3, section 3** of the Immigration Directorate Instructions, which you can find on our website, at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter3/>.

Administrative review (entry clearance applications only)

41. If we refuse an application for entry clearance and the applicant thinks that a mistake has been made, the applicant can ask us to check our decision. This is known as an 'administrative review'. Full guidance on administrative reviews can be found at **Annex A**. Please note applicants who are already in the United Kingdom cannot apply for an administrative review.

Appeal rights (in-country applications)

42. If we refuse an application for leave to remain and the applicant thinks that a mistake has been made, the applicant may be able to appeal against our decision. Details on how and if an applicant can appeal against our decision will be included with his/her reasons for refusal letter.

Date of application

43. The date of application will be taken to be the following:

•For applications made in the UK:

- where the application form is sent by post, the date of posting; or
- where the application form is sent by courier, the date on which it is delivered to the UK Border Agency of the Home Office;

•For applications made outside the UK:

- the date that the fee associated with the application is paid and the applicant's biometric details taken.

SPONSORSHIP

The role of the sponsor

44. To apply under Tier 2, an applicant must have a sponsor. A sponsor is an United Kingdom based organisation that wishes to employ the applicant in the United Kingdom.

45. In order to sponsor applicants, an employer will need to have registered as a licensed sponsor. The sponsor will need to meet the requirements for the particular category within Tier 2 and accept certain responsibilities to help with immigration control.

46. Find more information for sponsors on our website at: <http://www.ukba.homeoffice.gov.uk/employers/>.

47. The sponsor will need to assign a certificate of sponsorship before the applicant can apply for leave under Tier 2. The certificate of sponsorship will act as an assurance that the applicant is able to undertake a particular job and intends to do so.

The certificate of sponsorship

48. The certificate of sponsorship is not an actual certificate or paper document but is a virtual document similar to a database record. Each certificate of sponsorship has a unique reference number and contains information about the job for which the certificate of sponsorship is being issued and the applicant's personal details.

49. We will not provide the applicant with his/her certificate of sponsorship reference number as this is the responsibility of his/her sponsor.

50. The sponsor may also need to provide an applicant with some of the information declared when the certificate of sponsorship was assigned, for example, the applicant's wage. The applicant may need this information to accurately complete the points based calculator and the application form.

What is a live certificate of sponsorship?

51. Within the Sponsorship Management System (the system that sponsors use to assign a certificate of sponsorship) an applicant can only have one 'live' certificate of sponsorship for a given period of leave. A certificate of sponsorship is 'live' when a sponsor has assigned it to an applicant, but that applicant has not yet used that certificate of sponsorship's reference number to make an application for leave.

52. If an applicant has given his/her personal details to one prospective sponsor, and that sponsor assigns a certificate of sponsorship reference number to that applicant, then no other prospective sponsor will be able to assign a certificate of sponsorship to that applicant for the same period of leave. It is very important that where possible an applicant only gives his/her personal details (for example passport number) to a prospective sponsor with whom he/she intends to work.

53. If an applicant does not want to take up the job because he/she wishes to take up an offer of a job from a different sponsor, he/she must ask the sponsor to withdraw the certificate of sponsorship. The applicant must contact the sponsor in writing or by email and give the sponsor five working days to action this request. If the sponsor fails to action this request, the applicant should send a reminder to the sponsor. The sponsor will have a further five working days to action the request. If the sponsor refuses or fails to withdraw the certificate of sponsorship within the specified time, the applicant should contact the Sponsor Licensing Unit. The Sponsor Licensing Unit will cancel the certificate of sponsorship if necessary after discussions with the sponsor.

54. The applicant should contact the Sponsor Licensing Unit either by:

email: sponsorlicensing@ukba.gsi.gov.uk; or

post:

**Sponsor Licensing Unit
UK Border Agency
North East, Yorkshire and Humber Region
PO Box 3468
Sheffield
S3 8WA**

The applicant must provide the following information when contacting the Sponsor Licensing Unit:

- full name;
- nationality;
- the name of the sponsor he/she no longer wishes to work for;
- the certificate of sponsorship reference number he/she wishes to be cancelled;
- the name of the sponsor he/she wishes to work for;
- the reason why he/she wishes the certificate of sponsorship to be cancelled;
- the date he/she first contacted the sponsor to request the certificate of sponsorship be cancelled;
- the date he/she contacted the sponsor again to remind it to cancel the certificate of sponsorship.

55. The applicant must also provide the Sponsor Licensing Unit with a copy of any correspondence sent to his/her sponsor, which must clearly show who the correspondence was addressed to within the sponsoring organisation. The applicant must also provide any correspondence from that sponsor in connection with those requests (for example, acknowledgement email or letter).

56. If the applicant does not want to come to the United Kingdom, he/she should tell his/her sponsor that he/she will not travel, and ask the sponsor to withdraw the certificate of sponsorship. Applicants do not need to contact the Sponsor Licensing Unit as the certificate of sponsorship will automatically expire three months after it was assigned.

A withdrawn/cancelled certificate of sponsorship

57. A certificate of sponsorship can be withdrawn/cancelled at any time by either us or the sponsor. Where a certificate of sponsorship has been withdrawn/cancelled, the same procedures apply to the applicant as where a certificate of sponsorship becomes invalid.

What is a valid certificate of sponsorship?

58. A valid certificate of sponsorship is one that:

- has the same details on it as in the applicant's passport; and
- was assigned no more than three months before the date of application; and
- has not been withdrawn/cancelled by the sponsor or us.

59. The certificate of sponsorship will expire if it is not used for a leave application within three months of it being assigned. If the applicant submits an application using a certificate of sponsorship that has expired, the application will be refused. The applicant must get a new certificate of sponsorship from his/her sponsor.

60. The fact that a certificate of sponsorship has been issued does not guarantee that the applicant will succeed in obtaining entry clearance, or leave to remain. The applicant must meet the conditions for the category and tier and apply for entry clearance or leave to remain.

Sponsorship duties

61. The sponsor has a number of record keeping and reporting duties for the applicants that it sponsors.

62. Record keeping duties include keeping copies of the applicant's passport or United Kingdom immigration status document, and contact details.

Reporting duties include reporting to us:

- if a sponsored migrant does not turn up for his/her first day of work;
- if a sponsored migrant is absent from work for more than 10 working days, without the sponsor's reasonably granted permission;
- if a sponsored migrant's period of engagement (including where the migrant resigns or is dismissed) or if any registration he/she needs to work in the United Kingdom (such as with a governing body) is ended;
- if the sponsor stops sponsoring the migrant for any other reason (for example, if the migrant moves into an immigration route that does not require a sponsor);
- if there are any significant changes in the migrant's circumstances, for example, a change of job or salary (but not job title or annual pay rise);
- if the sponsor has any information which suggests that a migrant is breaching the conditions of his/her leave;
- if the sponsor has any information which suggests that the migrant may be engaging in terrorism or other criminal activity, it must give the police any information it may have.

63. The applicant must give his/her sponsor all the information needed for his/her sponsor to be able to fulfil the above duties.

64. The applicant may wish to report any instances where he/she believes that the sponsor is not complying with its duties, or has provided false information to us about him/her.

65. Applicants, or any member of the public, can contact the Intelligence Unit about abuse of the points based system either by:

email: workabuse@homeoffice.gsi.gov.uk; or

post:

**UK Border Agency
Intelligence Unit
PO Box 3468
Sheffield
S3 8WA**

telephone: 0114 207 2934

fax: 0114 207 2935

Alternatively applicants can contact the Sponsor Licensing Unit either by:

e-mail: sponsorlicensing@ukba.gsi.gov.uk; or

post:

**Sponsor Licensing Unit
UK Border Agency
North East, Yorkshire and Humber Region
PO Box 3468
Sheffield
S3 8WA**

66. Find a full list of the sponsorship record keeping and reporting duties on our website at: www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/.

Sponsor's licence

67. There are certain circumstances in which the status of the sponsor's licence may have an effect on the applicant. These are detailed below.

If a sponsor's licence is suspended

68. When a sponsor has its licence suspended, it will not be able to assign any new certificates of sponsorship, but this does not immediately affect anyone that it is sponsoring at that time.

69. An applicant can continue to submit applications for leave to remain during the time the sponsor's licence is suspended if his/her leave is due to expire.

70. If an applicant submits an application for entry clearance or leave to remain while the sponsor's licence is suspended, we will not consider the application. We will hold the application until the suspension is removed.

71. If we can, we will try to contact an applicant granted entry clearance relying on a certificate of sponsorship from a sponsor assigned prior to its licence being suspended

before he/she travels to the United Kingdom. We will advise him/her not to travel to the United Kingdom until we have resolved the suspension of the sponsor's licence.

72. An applicant who has already travelled to the United Kingdom will be allowed to enter the United Kingdom and start work for the sponsor.

73. If the sponsor's licence is withdrawn however, the certificate of sponsorship will be cancelled and the application will be refused. If the application is made while the applicant is in the United Kingdom, and it is refused, we may curtail the applicant's leave:

- to 60 days where the applicant was not complicit in the actions that resulted in the sponsor having its licence withdrawn. If the applicant has less than 6 months of his/her leave remaining, we will not curtail this leave. An applicant may wish to make a further application for leave; or
- with immediate effect where we consider the applicant to have been complicit.

If we are thinking about taking action against a sponsor

74. If we notify a sponsor that we are considering taking action against it, which may lead to the withdrawal of its licence, we will not consider any application for entry clearance or leave to remain made by an applicant to whom that sponsor has assigned a certificate of sponsorship. We will hold the application until a decision on the sponsor's licence is made.

75. If we can, we will try to contact an applicant granted entry clearance relying on a certificate of sponsorship from a sponsor assigned prior to its licence being suspended before they travel to the United Kingdom. We will advise him/her not to travel to the United Kingdom until we have made a decision on the sponsor's licence.

76. An applicant who has already travelled to the United Kingdom will be allowed to enter the United Kingdom and start work for the sponsor.

77. An applicant can submit applications for leave during this time. If the sponsor's licence is withdrawn however, the certificate of sponsorship will be cancelled and the application will be refused. If the application is made while the applicant is in the United Kingdom, and it is refused, we may curtail the applicant's leave:

- to 60 days where the applicant was not complicit in the actions that resulted in the sponsor having its licence withdrawn. If the applicant has less than 6 months of his/her leave remaining, we will not curtail this leave. An applicant may wish to make a further application for leave; or
- with immediate effect where we consider the applicant to have been complicit.

If a sponsor's licence is withdrawn

78. If a sponsor has its licence withdrawn, any certificates of sponsorship it has issued will become invalid. This affects both applicants who have yet to apply for entry clearance or leave to remain, and applicants who are already working for the sponsor.

79. We will refuse any application for entry clearance or leave to remain made by an applicant using an invalid certificate of sponsorship.

80. Where an applicant has already been granted entry clearance but has not travelled to the United Kingdom, the entry clearance will be revoked. Where the applicant has already travelled to the United Kingdom, he/she will not be allowed to enter the United Kingdom.

81. Where an applicant is in the United Kingdom and working for a sponsor when its licence is withdrawn, we may curtail the leave of the applicants being sponsored:

- to 60 days where the applicant was not complicit in the actions that resulted in the sponsor having its licence withdrawn. If the applicant has less than 6 months of his/her leave remaining, we will not curtail this leave. An applicant may wish to make a further application for leave; or

- with immediate effect where we consider the applicant to have been complicit.

Sponsor takeover and/or transfer of employment

82. If an applicant's sponsor is taken over by another organisation and/or there is a transfer of employment, the new employer must apply to become a licensed sponsor within 28 calendar days of taking over the business.

83. If it does not, we are likely to curtail an applicant's leave to 60 days, as he/she will not be working for a licensed sponsor. If the applicant has less than 6 months of his/her leave remaining, we will not curtail this leave. An applicant may wish to make a further application for leave.

84. If the new employer does not get a licence, any certificate of sponsorship issued by the previous employer will be invalid.

85. Find more information about sponsor takeover and/or transfer of employment in the 'Guidance for sponsor applications Tier 2, Tier 4 and Tier 5 of the points based system' on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/sponsorapplicationsguidance.pdf>.

If a sponsor does not renew its licence

86. If the sponsor does not renew its licence, any certificates of sponsorship it has issued will become invalid. We may curtail the leave of the applicants it sponsors to 60 days. If the applicant has less than 6 months of his/her leave remaining, we will not curtail this leave. Applicants may wish to make a further application for leave. We may refuse entry to the United Kingdom to any applicants who have not yet travelled.

Termination of employment

87. If an applicant's employment ends before his/her period of leave, we may curtail his/her leave to 60 days. If the applicant has less than 6 months of his/her leave remaining, we will not curtail this leave. An applicant may wish to make a further application for leave.

88. Find more information about the sponsor's licence status in the 'Guidance for sponsor applications Tier 2, Tier 4 and Tier 5 of the points based system' on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/sponsorapplicationsguidance.pdf>.

Visiting officer visits

89. Sponsors may get a visit from our visiting officers at any time. The visit may be to check that the sponsor is complying with its duties. When we visit, we may also want to speak to the applicant and other migrant workers the sponsor is employing.

Switching

<p>Switching into Tier 2 (General), Tier 2 (Sportsperson) and Tier 2 (Minister of Religion)</p>	<ul style="list-style-type: none">• Switching is allowed for applicants who have, or were last granted, leave as a:<ul style="list-style-type: none">• Tier 1 Migrant;• Tier 2 Migrant;• Tier 4 Migrant;• Tier 5 (Temporary Worker) Migrant in the Government Authorised Exchange sub-category, for a job as an overseas qualified nurse or midwife. The applicant must have completed their registration with the Nursing and Midwifery Council and meet the full points requirements of Tier 2;• Tier 5 (Temporary Worker) Migrant in the Creative and Sporting sub-category, for a job as a professional footballer. However, if a footballer is unable to meet the required standard for English language, they will not be able to switch and must leave the United Kingdom at the end of the 12 months to apply for re-entry under Tier 5.• Highly Skilled Migrant;• Innovator;• Participant in Fresh Talent: Working in Scotland Scheme;• Participant in the International Graduates Scheme (or its predecessor the Science and Engineering Graduate Scheme);• Business and Commercial work permit holder (except multiple entry work permits);• Sports and Entertainment work permit holder (except multiple entry work permits);• Jewish Agency Employee;• Member of the Operational Ground Staff of an Overseas-owned Airline;
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	<ul style="list-style-type: none"> • Minister of Religion, Missionary or Member of a Religious Order; • Overseas Qualified Nurse or Midwife; • Person Writing Up a Thesis; • Postgraduate Doctor or Dentist; • Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation; • Student; • Student Nurse; • Student Re-Sitting an Examination; • Student Union Sabbatical Officer.
<p>Switching into Tier 2 (Intra Company Transfer)</p>	<p>Switching is allowed for applicants who have, or were last granted, leave as a work permit holder, where that leave was last granted as an Intra Company Transferee and the applicant is still working for the same employer as he/she was at the time of that earlier grant of leave.</p>

Conditions of leave

<p>Conditions applicants must meet.</p>	<p>Applicants in any Tier 2 category will be subject to the following conditions:</p> <ul style="list-style-type: none">• must be at least 16 years old; and• must not own more than 10% of the sponsor's shares, if the sponsor is a limited company; and• no recourse to public funds; and• registration with the police, if this is required by paragraph 326 of the Immigration Rules; and• no employment, except:<ul style="list-style-type: none">○ working for the sponsor in the employment that the certificate of sponsorship records that the migrant is being sponsored to do; and○ supplementary employment; and○ voluntary work.
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91. All applicants wanting to travel to the United Kingdom under Tier 2 of the points based system will need prior entry clearance. All applicants applying for either entry clearance or further leave to remain in the United Kingdom will need a valid certificate of sponsorship reference number before he/she can submit his/her application.

92. The applicant will be able to enter the United Kingdom up to 14 days before his/her start date, the date given by his/her sponsor on the certificate of sponsorship.

POINTS SCORING

93. In order to obtain entry clearance or leave to remain within Tier 2 an applicant must score enough points and send supporting evidence where appropriate.

94. Under Tier 2 (General) or Tier 2 (Intra Company Transfer), an applicant must score:

- at least 50 points for attributes, which can include qualifications and prospective earnings (Appendix A of the Immigration Rules); and
- 10 points for English language (Appendix B of the Immigration Rules). The exception to this is where the applicant is applying for entry clearance as an Intra Company Transferee, or extending his/her leave to remain in the United Kingdom where that extension will not take his/her total leave under Tier 2 (Intra Company Transfer) to longer than three years; and
- 10 points for maintenance (funds) (Appendix C of the Immigration Rules).

95. Under Tier 2 (Sportsperson) and Tier 2 (Minister of Religion) applicants must score:

- 50 points for a certificate of sponsorship (Appendix A of the Immigration Rules); and
- 10 points for English language (Appendix B of the Immigration Rules); and
- 10 points for maintenance (funds) (Appendix C of the Immigration Rules).

Points available for Tier 2 (General) and Tier 2 (Intra company Transfer)

96. Where an applicant is applying for entry clearance, is switching, or is changing his/her employment, the points available are:

Section	Sponsorship		Academic qualifications (or equivalent vocational or professional qualifications)		Prospective Earnings (£)	
A Attributes (50 points needed)	Job in shortage occupation	50	None, or below an appropriate sub degree level qualification*	0	Under 17,000	0
	Offer of job that passes resident labour market test	30	Appropriate sub degree level qualification*	5	17,000 - 19,999.99	5
	Switching from a post study category ²	30	Bachelors or Masters	10	20,000 - 21,999.99	10
	Intra company transfer	30	PhD	15	22,000 - 23,999.99	15
					24,000 or more	20
B	English language skills (the exception to this is where the applicant is applying for Entry Clearance as a Tier 2 (Intra Company Transfer))					10
C	Maintenance (funds)					10

² For the purpose of this guidance, a post study category includes Tier 1: Post Study, Fresh Talent Working in Scotland Scheme, and International Graduate Scheme (formally known as Science and Engineering Graduate Scheme).

Such applicants must have been working in his/her present job for his/her current employer for at least six months, and will continue to work in that job with his/her sponsor as his/her current employer.

Where an applicant is making an extension application, the points available are:

Section	Sponsorship		Academic qualifications (or equivalent vocational or professional qualifications)		Prospective Earnings (£)	
A Attributes (50 points needed)	Certificate of sponsorship assigned under the transitional arrangements	50	None, or below an appropriate sub degree level qualification*	0	Under 17,000	0
	Job in shortage occupation	50	Appropriate sub degree level qualification*	5	17,000 - 19,999.99	5
	Applicant was awarded points when last granted leave because the job was in a shortage occupation	50	Bachelors or masters	10	20,000 - 21,999.99	10
	Other cases in which the applicant has a certificate of sponsorship ³	30	PhD	15	22,000 - 23,999.99	15
					24,000 or more	20
B	English language skills (the exception to this is where the applicant is a Tier 2 (Intra Company Transfer) extending his/her leave to remain in the United Kingdom where that extension will not take his/her total leave under Tier 2 Intra Company Transfer to longer than three years)					10
C	Maintenance (funds)					10

*An “appropriate sub degree level qualification” means:

- a) 1 or more passes at GCE A level;
- b) a qualification obtained in the United Kingdom that is deemed by the appropriate qualifications framework in the part of the United Kingdom in which it was obtained to be equivalent to, or higher than, (a) but below degree level, or
- c) a qualification obtained outside the United Kingdom, where the applicant provides the specified evidence to show that it is equivalent to; or higher than, (a) but below degree level.³

³ A resident labour market test is not required for extension applications

97. An applicant cannot score points for sponsorship from the tables above if the job on the certificate of sponsorship records that he/she is being sponsored as a Sports person or a Minister of Religion.

98. All the requirements of the Immigration Rules have to be met, this includes the job skill level being at N/SVQ3 or greater (except those applying under the senior care worker or established entertainer provisions), and the applicant's pay being at the United Kingdom appropriate rate for that job. Further information is available in the Codes of Practice for sponsors: <http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/>.

99. If an applicant will be working for a sponsor who is a limited company he/she must not own more than 10% of its shares.

ATTRIBUTES FOR TIER 2 (GENERAL) AND TIER 2 (INTRA COMPANY TRANSFERS)

Shortage occupations

100. The Migration Advisory Committee will recommend lists of shortage occupations which can be sensibly filled by migration. There will be one list for the whole of the United Kingdom and a further list for Scotland. The Government will consider these recommended lists and publish the lists, which will be revised at regular intervals. If an applicant is claiming points for a job on the shortage occupation list in Scotland the applicant must be undertaking that job in Scotland.

101. Find the list of approved shortage occupations on our website at <http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/>.

102. Where an applicant is applying for leave to fill a job from this list, he/she will receive sufficient points, without having to earn points for prospective earnings or qualifications.

103. An applicant's contracted working hours must be for at least 30 hours a week when filling a shortage occupation job.

Claiming points

104. An applicant will only be able to claim points for a shortage occupation if his/her prospective job was on the shortage occupation list at the time his/her certificate of sponsorship was assigned by the sponsor. The sponsor must have also completed the relevant field on the certificate of sponsorship.

105. The applicant should confirm with his/her sponsor that it has indicated that his/her job is a shortage occupation on the certificate of sponsorship.

Resident labour market test

106. The resident labour market test is used to protect the domestic labour market. An applicant can only come to work in the United Kingdom where there is no suitable settled worker to fill the job.

Claiming points

107. For the applicant to claim points for a resident labour market test the sponsor has to follow the code of practice relevant to that occupation, before assigning a certificate of sponsorship.

108. The applicant should check with his/her sponsor that it has indicated a resident labour market test has been completed on the certificate of sponsorship.

Switching from a post study category

Claiming points

109. An applicant can claim 30 points where he/she is switching from the:

- Tier 1: Post Study category; or
- Fresh Talent: Working in Scotland Scheme; or
- International Graduate Scheme (formally known as the Science and Engineering Graduate Scheme);

providing he/she has worked in his/her present job for his/her sponsor for at least six months prior to the application, and will continue to work in that job.

110. If an applicant has not been working for his/her sponsor for at least six months prior to the application, the sponsor will have to undertake a resident labour market test. The applicant will not be able to claim points for switching from a post study category, but can claim points because his/her sponsor has completed a resident labour market test.

Documents we require

111. An applicant will need to provide two pieces of evidence that he/she has worked for the sponsor for at least six months prior to his/her application.

112. Only the following specified documents will be accepted as evidence of this requirement:

EITHER

i) Payslips

These should be either formal payslips or on company-headed paper. If payslips are not on headed paper or the applicant only receives online pay slips, he/she will be required to obtain his/her employer's signature and stamp on a print-out to authenticate the evidence. Where provided, payslips must cover the whole period claimed (if payslips are generated monthly, each monthly payslip for the period claimed must be provided).

OR

ii) Personal bank or building society statements covering six full consecutive months

The most recent statement must be dated no earlier than one calendar month before the date of the application.

The personal bank or building society statements should clearly show:

- the applicant's name;
- the account number;
- the date of the statement;
- the financial institution's name and logo; and
- transactions by the sponsor covering the six month period.

Ad hoc bank statements printed on the bank's letterhead are admissible as evidence (This excludes mini-statements from ATMs).

If the applicant wishes to submit electronic bank statements from an online account these must contain all of the details listed above. In addition, the applicant will need to provide a supporting letter from his/her bank, on company headed paper, confirming the authenticity of the statements provided.

OR

iii) Building society pass book covering the previous six month period immediately before

the application

The building society pass book should clearly show:

- the applicant's name;
- the account number;
- the financial institution's name and logo; and
- transactions by the sponsor covering the six month period.

AND

iv) Letter from sponsor confirming an applicant has been working for his/her prospective sponsor for at least six months prior to the application

The letter from the sponsor should show:

- the applicant's name;
- the date of the letter; and
- the sponsor's name and logo.

Applicants should provide full contact details for each document supplied, that will allow all supporting documents to be verified if necessary.

Applicants should also provide any information/explanation of the documentation submitted, that may assist us in our consideration.

Intra Company Transfers

Claiming Points

113. This category is for applicants to transfer from their overseas organisation to a skilled post in a United Kingdom-based branch of the same company. To claim points as an Intra Company Transferee, the applicant must have worked for the organisation for at least the six months immediately before the date of the application:

- outside the United Kingdom; and/or
- as a Tier 2 (Intra Company Transfer) migrant; and/or

- as an Intra Company Transfer Work Permit Holder.

114. The applicant should confirm with his/her sponsor that it has indicated that he/she is an Intra Company Transferee on the certificate of sponsorship.

Documents we require

115. An applicant will need to provide evidence that he/she has worked for the sponsoring organisation for at least six months prior to his/her application, unless he/she is making an extension or change of employment application to do the same or a different job for the same sponsor.

116. Only the following specified documents will be accepted as evidence of this requirement:

EITHER

i) Payslips

These should be either formal payslips or on company-headed paper. If payslips are not on headed paper or are printouts of online payslips, the applicant will be required to submit a letter from the sponsor, confirming the authenticity of the payslips. This letter must be on company headed paper, and must be signed by a senior official. Where provided, payslips must cover the whole period claimed (if payslips are generated monthly, each monthly payslip for the period claimed must be provided).

OR

ii) Personal bank or building society statements covering six full consecutive months

The most recent statement must be dated no earlier than one calendar month before the date of the application.

The personal bank or building society statements should clearly show:

- the applicant's name;
- the account number;

- the date of the statement;
- the financial institution's name and logo; and
- transactions by the sponsor covering the six month period.

Ad hoc bank statements printed on the bank's letterhead are admissible as evidence (This excludes mini-statements from ATMs.).

If the applicant wishes to submit electronic bank statements from an online account these must contain all of the details listed above. In addition, the applicant will need to provide a supporting letter from his/her bank, on company headed paper, confirming the authenticity of the statements provided.

OR

iii) Building society pass book

The building society pass book should clearly show:

- the applicant's name;
- the account number;
- the financial institution's name and logo;
- transactions by the sponsor covering the six month period immediately before the date of the application.

Applicants should provide full contact details for each document supplied, that will allow all supporting documents to be verified if necessary.

Applicants should also provide any information/explanation of the documentation submitted, that may assist us in our consideration.

Claiming Points – all extension applications

117. An applicant who was awarded points when last granted leave because his/her job was in a shortage occupation will be able to claim 50 points at extension.

118. For extension applications (excluding shortage occupations) applicants can score 30 points for possessing a valid certificate of sponsorship. This confirms the applicant will continue to be sponsored for the duration of the extension.

Qualifications

119. An applicant can claim points according to the level of his/her qualification.

Claiming Points

120. An applicant will not need to resend documentary evidence where he/she can demonstrate that he/she 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) and he/she was previously awarded points for his/her qualification for the same application. The applicant should submit a copy of his/her grant letter where that letter details the points that he/she was previously awarded for the qualification.

Where the applicant is unable to demonstrate this he/she must send the documents associated with his/her qualification, as detailed below.

121. An applicant can score the following points for his/her qualification:

PhD*	15 points
Masters or Bachelors*	10 points
An appropriate sub degree level qualification	5 points
None, or below an appropriate sub degree level qualification	0 points

*or equivalent vocational or professional qualifications

122. An applicant can only score points for one qualification.

123. To score the points, the qualification must meet, or exceed, the United Kingdom recognised standard of an appropriate sub degree level qualification, Bachelors, Masters or PhD, as verified by the National Academic Recognition Information Centre for the United Kingdom (UK NARIC).

124. Points can also be awarded for a vocational and professional qualification where it is at least the same as one of the levels above, as long as it can be verified by UK NARIC or by the appropriate United Kingdom professional body.

125. Points can only be awarded if we receive the specified documentary evidence of the applicant's qualification. More information is contained in the 'Documents we require' section.

Claiming points – extension applications

126. Please note that the qualification bandings, and the associated points, stated above are subject to change. An applicant can only claim the points for his/her qualification that are available at the time he/she applies for an extension.

How qualifications are assessed

127. We assess an applicant's qualifications using the points based calculator which is available on our website. The calculator contains information from UK NARIC that checks the United Kingdom equivalent of the applicant's qualification.

128. UK NARIC is a private company that specialises in comparing overseas qualifications to United Kingdom academic levels.

129. An applicant may claim points if the points based calculator confirms that the qualification claimed meets or exceeds the recognised standard of an appropriate sub degree level qualification, Bachelors or Masters degree, or a PhD in the United Kingdom.

Checking qualifications

130. An applicant should check the level of his/her qualification by using the points based calculator which is on our website at: www.ukba.homeoffice.gov.uk/pointscalculator.

131. For academic qualifications, if the applicant cannot find details of his/her qualification on the points based calculator, he/she may still wish to claim points for it. If so, he/she should contact UK NARIC directly for an assessment of the level of the qualification. If UK NARIC confirms it is of the required level, he/she must obtain a letter and/or confirmation certificate from UK NARIC. Contact details for UK NARIC are on its website: www.naric.org.uk. UK NARIC may charge a fee for confirming qualifications.

132. If UK NARIC cannot confirm these details, we will not award points for the academic qualification. In this case, an applicant may wish to use an alternative qualification if he/she has one.

133. For professional/vocational qualifications, where the applicant is unable to find details of his/her qualification on the points based calculator, he/she may still wish to claim points for the qualification in question. In these circumstances the applicant should obtain written confirmation from the appropriate United Kingdom professional body of the qualification's equivalence to United Kingdom academic levels.

Documents we require

134. Only the following specified documents will be accepted as evidence of this requirement:

i) Original certificate of award of the qualification

This document must be the original (not a copy) and must clearly show the:

- applicant's name;
- title of the award;
- date of the award; and

- name of the awarding institution.

We will not accept original provisional certificates.

135. The original certificate of award must always be provided unless the applicant is awaiting graduation having successfully completed their qualification, or the applicant no longer has the certificate and the institution who issued the certificate is unable to produce a replacement. In which case he/she should send:

ii) An original academic reference from the institution that is awarding the qualification together with an original academic transcript

136. The original academic reference from the institution awarding the qualification must be on the official headed paper of the institution and clearly show the:

- applicant's name;
- title of award;
- date of award, confirming that it has been/will be awarded; and
- date that the certificate will be issued (if the applicant has not yet graduated) or confirmation that the institution is unable to reissue the original certificate or award.

137. The original academic transcript must be on the institution's official paper and must show the:

- applicant's name;
- name of the academic institution;
- course title; and
- confirmation of the award.

138. If the applicant cannot provide his/her original certificate for one of the reasons given above and is claiming points for a qualification with a significant research bias (frequently doctorates) he/she may not be able to provide an academic transcript. In these cases we will accept an academic reference alone. The academic reference must include all the information detailed above.

Additional documents required for qualifications that cannot be found on the points based calculator.

139. Where an applicant cannot find details of his/her academic qualification on the point based calculator, he/she must, in addition to the document or documents listed above, submit an original letter/certificate from UK NARIC confirming the equivalency of the level of his/her qualification.

140. Where an applicant cannot find details of his/her professional/vocational qualification on the points based calculator, he/she should, in addition to the document or documents listed above, submit an original letter from the appropriate UK professional body confirming the equivalence to United Kingdom academic levels of his/her qualification. This must clearly show:

- the name of the qualification, including the country and awarding body; and
- confirmation of which United Kingdom academic level this qualification is equivalent to.

Prospective earnings

141. An applicant can claim points according to the amount of prospective earnings offered by his/her sponsor.

Claiming Points

142. An applicant can score the following points for his/her prospective earnings:

£24,000 or more	20 points
£22,000 - £23,999.99	15 points
£20,000 - £21,999.99	10 points
£17,000 - £19,999.99	5 points
under £17,000	0 points

143. The salary bands above are before tax (gross) and yearly. The salary bands also include allowances if they are part of the applicant's guaranteed salary package.

144. For Tier 2 (General) the salary must be paid in the United Kingdom. Salary comprises basic pay plus any allowances, such as London weighting, which would also be paid to a settled worker in similar circumstances. It does **not** include other benefits, such as overtime, bonus or incentive pay, travel and subsistence (including travel to and from the source country).

145. For Tier 2 (Intra Company Transfers), the salary may be paid in the United Kingdom or abroad. Where the migrant will be paid abroad in a currency other than pounds sterling, the salary amount entered on the certificate of sponsorship will be based on the exchange rate for the relevant currency on the day the certificate is assigned, taken from the rates published on www.oanda.com. We will take account of:

- basic pay (**excluding** overtime); and
- allowances (including daily payments to cover additional cost of living whilst in the United Kingdom but not including expenses to cover travel between the source country and the United Kingdom).

However, in the case of allowances made available solely for the purpose of accommodation, only allowances up to 30% of the total gross salary package will be taken into account for the purposes of awarding points and assessing whether the salary passes the appropriate rate test. This is whether such allowances are made available in cash or in kind.

For example, if an applicant's prospective salary plus other (non-accommodation) allowances are £14,000, we will take into account a maximum gross salary package of £14,000 / 70% = £20,000. In this example, the maximum accommodation allowance we will take into account is £6,000 (30% of £20,000). If the accommodation allowance offered to the applicant is £6,000 or less, we will take all of it into account. If the accommodation allowance is more than £6,000, we will only take £6,000 of it into account.

Where a cash allowance is not designated solely for accommodation, but where the employer or employee intends to claim tax relief under the UK Detached Duty Relief income tax provisions on any accommodation procured through the allowance, the 30% limit will be applied. This claim may be through the P11D, year end tax returns and / or through an agreed dispensation on allowances with HM Revenue and Customs. The 30% limit will be applied on the basis that the intent to claim tax relief is evidence of the provision of a dedicated cash accommodation allowance. We will consider the level of accommodation spending on which tax relief will be (or is intended to be) claimed as an accommodation allowance.

146. Where the applicant is working in the United Kingdom for less than 12 months, he/she should claim the appropriate points for his/her projected yearly earnings.

For example, an applicant earning £10,000 on a six month contract will be able to claim points for the equivalent earnings of £20,000 per year.

This is only applicable to applicants on short term contracts. An applicant working part time will not be able to project his/her earnings to full time hours in order to claim points. An applicant working part time will only be able to claim points for his/her actual earnings.

147. We will only award points for contractual hours up to a maximum 48 hour working week, even if the applicant is working over 48 hours a week.

For example, an applicant earning £25,000 per year, working 60 hours per week, must work out his/her equivalent earnings for a 48-hour week. In this example, this would be £25,000 x (48 / 60) = £20,000.

The applicant would therefore only be able to claim 10 points for his/her prospective earnings.

148. The applicant should ask his/her sponsor to confirm the salary details entered on the certificate of sponsorship. An applicant should add both the wage and any permitted allowances together in order to work out the points he/she is entitled to claim. An applicant working over a 48 hour week must calculate his/her wage as above before adding any allowances.

149. Further details on allowances can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/>.

Checking an applicant's salary

150. The applicant may wish to report any discrepancy between his/her actual wage and the wage he/she stated on his/her application form to us.

151. Applicants can contact the Intelligence Unit about abuse of the points based system either by:

email: workabuse@homeoffice.gsi.gov.uk; or

post:

**UK Border Agency
Intelligence Unit
PO Box 3468
Sheffield
S3 8WA**

telephone: 0114 207 2934; or

fax: 0114 207 2935

Alternatively applicants can contact the Sponsor Licensing Unit either by:

e-mail: sponsorlicensing@ukba.gsi.gov.uk; or

post:

**Sponsor Licensing Unit
UK Border Agency
North East, Yorkshire and Humber Region
PO Box 3468
Sheffield
S3 8WA.**

152. If we undertake checks on an applicant or sponsor and find a discrepancy that the applicant has not reported, we may take action. We may undertake investigations to establish whether the applicant has colluded with the sponsor and take any necessary action based on those investigations.

Claiming Points – extension applications

153. An applicant will need to claim points for prospective earnings when applying for an extension. Please note that the prospective earnings bandings, and the associated points, stated are subject to change.

TIER 2 (SPORTSPERSON)

154. The points are:

A	Certificate of sponsorship	50 points
B	English language skills	10 points
C	Maintenance (funds)	10 points

155. This category is for elite sports people and coaches who are internationally established at the highest level.

156. In order to claim points for section **A** of the above table, the applicant must have a valid certificate of sponsorship issued by his/her sponsor.

157. In order for a certificate of sponsorship to be issued, the sponsor will need to have an endorsement for the applicant from the appropriate governing body for his/her sport. The endorsement will confirm that:

- the player or coach is internationally established at the highest level, and
- will make a significant contribution to the development of his/her sport at the highest level in the United Kingdom; and
- the post could not be filled by a suitable settled worker.

158. The endorsement will be obtained from the governing body by the sponsor.

159. Find a list of all approved governing bodies on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/sportspeople/>.

Extension applications

160. An applicant will need to have been issued with a certificate of sponsorship for his/her continued employment. The applicant will also need to have a new governing body endorsement with a new reference number.

TIER 2 (MINISTER OF RELIGION)

161. The points are:

A	Certificate of sponsorship	50 points
B	English language skills	10 points
C	Maintenance (funds)	10 points

162. This category includes anyone who preaches, whether regularly or on a one off occasion, and/or performs pastoral duties. This category is for applicants coming to work in the United Kingdom as a minister or missionary or to join a religious community as a member of a religious order.

163. For examples of the duties we expect those coming in under Tier 2 (Minister of Religion) to undertake, please see 'Guidance for Sponsor Application Tier 2, Tier 4 and Tier 5 of the Points Based System', which can be found at: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/sponsorapplicationsguidance.pdf>.

164. In order to claim points for section **A** of the above table, the applicant must have a valid certificate of sponsorship issued by his/her sponsor. The sponsor must follow the code of practice for this category in order to assign a certificate of sponsorship.

165. Applicants must provide an official letter from the sponsor with their application, which gives an outline of the applicant's duties, details of remuneration, and an explanation of how the role passes the resident labour market test. Further information is available in the Codes of Practice for sponsors: <http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/>.

Extension applications

166. An applicant will need to have been issued with a certificate of sponsorship for his/her continued employment. A resident labour market test is not required for extension applications.

ENGLISH LANGUAGE REQUIREMENT

English language assessment

167. English is the most widely spoken language of the United Kingdom. The ability to speak English to a competent level improves an applicant's potential to succeed in the United Kingdom labour market and assists in integration into the United Kingdom.

168. Therefore, in order to qualify an applicant must provide the specified documents to show that they have a good knowledge of English.

169. Applicants applying to enter or remain in the United Kingdom under Tier 2 (General), or Tier 2 (Sportsperson) are required to speak English to a certain level. This includes being able to understand and use familiar everyday expressions and very basic phrases, to introduce himself/herself and others, and to ask and answer questions about very basic personal details. This is closest to level A1 of the Council of Europe's Common European Framework of Reference.

170. A Tier 2 (Intra Company Transfer) applicant will only be required to demonstrate the required English language ability if he/she applies to extend his/her leave beyond three years.

171. Applicants applying to enter or remain in the United Kingdom under the Tier 2 (Minister of Religion) category must have a higher level of English language than other categories in Tier 2 because of the need to communicate with worshippers. This is equivalent to level B2 of the Council of Europe's Common European Framework of Reference.

172. There are three ways in which an applicant can show he/she meets the English language requirement. The applicant can:

- be a national of a majority English speaking country; or
- pass an English language test detailed at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/approvedenglishtestst2.pdf>; or

- hold a degree that was taught in English and is equivalent to a United Kingdom Bachelors degree or above.

Claiming Points

173. An applicant (excluding those applying as a Tier 2 Minister of Religion) meets the English Language requirement, without the need to provide evidence, if he/she:

- was last granted leave under Tier 1 (General), Tier 1 (Entrepreneur), or the Highly Skilled Migrant Programme after 7 November 2006; or
- was last granted leave under a Tier 2 category (having already provided evidence of meeting the English language requirement) and is applying for an extension within the same category; or
- is making an application under the transitional arrangements; or
- is making an application as a result of a change of employment, where:
 - the applicant has already provided evidence of meeting the English Language requirement as a Tier 2 migrant; or
 - the applicant was last granted leave as a Minister of Religion on or after 23 August 2004.

174. A Tier 2 (Minister of Religion) applicant meets the English Language requirement, without the need to provide evidence, if he/she:

- was last granted leave under Tier 1 (General), Tier 1 (Entrepreneur), or the Highly Skilled Migrant Programme after 7 November 2006; or
- was last granted leave as a Tier 2 Minister of Religion; or
- was last granted leave as a Minister of Religion on or after 19 April 2007.

175. Applicants who are unable to score 10 points in the section for English language requirements will be refused. Under Appendix B of the Immigration Rules, we will refuse these

applications even if the applicant has attained the pass mark of 50 for attributes and has met all the other requirements of the Immigration Rules for permission to stay as a Tier 2 migrant.

National of a majority English speaking country

176. Nationals of the majority English-speaking countries listed below automatically meet the English language requirement:

- Antigua and Barbuda;
- Australia;
- The Bahamas;
- Barbados;
- Belize;
- Canada;
- Dominica;
- Grenada;
- Guyana;
- Jamaica;
- New Zealand;
- St Kitts and Nevis;
- St Lucia;
- St Vincent and the Grenadines;
- Trinidad and Tobago;
- The United States of America.

Documents we require

177. Appendix B of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are:

i) Current valid original passport or travel document

An applicant who is unable to submit his/her current original passport or travel document at the time of the application must give full reasons for this in the passport information section of the application form.

The only valid exceptional circumstances in which alternative specified documents may be provided are where the applicant's current passport/travel document has:

- been lost;
- been stolen;
- expired and been returned to the relevant authorities;
- been sent to another part of the UK Border Agency.

Appendix B of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The applicant may exceptionally provide the following alternative specified documents:

ii) Current national identity document

iii) Original letter from the applicant's home government or embassy

This document must be original, on the letter-headed paper of the government or embassy. It must have been issued by an authorised official of that institution and must confirm the applicant's:

- full name;
- date of birth; and
- nationality.

English language test

178. We will only accept test certificates from providers that have been assessed as meeting our requirements.

179. English language tests that have been assessed as meeting our requirements are available on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/general/eligibility/>.

Applicants must provide evidence of passing an English language test at the level appropriate to the category of Tier 2 under which he/she is applying.

180. Applicants with disabilities (for example, hearing difficulties) are not exempt from the English Language requirement. He/she should contact a test provider for details of support that can be provided whilst sitting the test.

Applicants waiting to sit an English Language Test or waiting for his/her test result (in-country applications only)

181. Some applicants applying for leave to remain under Tier 2 may need to submit his/her application before he/she has sat, or received the results of, an English language test.

182. For those applications only, the applicant must give us the date of his/her English language test within 10 working days of submitting the application. This information should be submitted in writing, sent to the following address, giving the applicant's payment reference number:

**UK Border Agency
PO Box 3468
Sheffield
S3 8WA**

183. Once the applicant has sat the test and received the results he/she must provide the certificate within five working days.

184. When the applicant provides an English language test certificate, we will complete our assessment of the application.

185. If the applicant provides confirmation from the test provider that he/she has sat a test or has a confirmed date to take the test, we will continue to hold the application open for the applicant to complete this process.

186. If the applicant does not pass the test on the first attempt, the application will not be held open to allow for more attempts to be made. We will consider the application on the basis of the evidence already provided. In these circumstances, we will refuse the application because the applicant will not have scored 10 points for English language.

Documents we require

187. Only the following specified documents will be accepted as evidence of this requirement:

i) Original test result certificate

The certificate must clearly show the:

- applicant's name;
- qualification obtained; and
- date of the award.

Degree taught in English

188. An applicant may provide evidence that he/she holds a degree which is equivalent to United Kingdom Bachelors level or higher and which was taught or researched in English to a particular level as evidence of his/her English language ability.

189. The degree **must**:

- be recognised by National Academic Recognition Information Centre for the United Kingdom (UK NARIC) as equivalent to at least a United Kingdom Bachelors degree; and
- have been taught in English.

190. Where the degree was taken in a majority English speaking country, listed below, we will assume it to have been taught in English:

- Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; the United Kingdom; the United States of America.

Please note that Canada is not on this list.

191. Where the degree was taken in another country we will always assess it using the points based calculator on our website. The calculator contains information from UK NARIC on whether overseas qualifications are equivalent to United Kingdom Bachelors level or higher.

192. Applicants can claim points when the points based calculator confirms that the degree:

- meets or exceeds the equivalent level to United Kingdom Bachelors degree; and
 - was taught to a competent standard of English equivalent to level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment; or
 - the applicant includes a letter with his/her application from his/her University confirming that the degree was taught in English (this is not applicable under Tier 2 Minister of Religion).

Checking qualifications

193. An applicant should check his/her degree by referring to the points based calculator on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>.

194. The applicant must confirm that his/her degree:

- is equivalent to a United Kingdom Bachelors degree; **and**
- was taught in English.

195. The applicant can confirm that his/her degree was taught in English by using the English language section of the points based calculator.

196. Where the applicant is unable to find his/her degree in the English language section of the points based calculator, the applicant may be able to confirm that his/her degree is equivalent to a United Kingdom Bachelors degree by using the qualifications section of the points based calculator.

197. For academic qualifications, if the applicant cannot find details of his/her degree on the points based calculator, he/she may still wish to claim points for it. If so, he/she should contact UK NARIC directly for an assessment of the level of the qualification. If UK NARIC confirms it is of the required level, he/she must obtain a letter and/or confirmation certificate from UK NARIC. Contact details for UK NARIC are on its website: www.naric.org.uk. UK NARIC may charge a fee for confirming qualifications.

198. UK NARIC will only be able to confirm that the qualification is equivalent to a United Kingdom Bachelors degree, not that it was taught in English.

199. Where the applicant is unable to find his/her degree in the English Language section of the points based calculator he/she must include a letter from his/her university confirming that his/her degree was taught in English.

200. An applicant applying under Tier 2 (Minister of Religion) can only score points for his/her degree being taught in English where he/she can find that degree on the English language section of the points based calculator.

Documents we require

201. Where the applicant has sought confirmation of his/her degree from UK NARIC he/she must include the letter/confirmation certificate with his/her application.

202. Where an applicant has been unable to find his/her degree on the points based calculator, and is submitting a letter from his/her university, the letter must be original, issued by the awarding institution on the official headed paper of the institution and include the following details (this is not applicable to Tier 2 Minister of Religion):

- the applicant's name; and
- the title of award; and
- the date of the award; and
- confirmation that the degree was taught in English.

The applicant should ensure that the contact details for the awarding body are up-to-date, because if we need to verify the details and are unable to contact the institution we will not accept this evidence and may therefore refuse the application.

203. Only the following specified documents will be accepted as evidence of this requirement:

i) Original Certificate of Award

This document must be original and must clearly show the:

- applicant's name;
- title of the award;
- date of the award; and
- name of the awarding institution.

Please note that original provisional certificates are not acceptable.

This document must always be provided unless the applicant is awaiting graduation in which case the following should be sent:

ii) Original Academic Transcript

If the applicant is awaiting graduation but has successfully completed the degree, we can consider an original academic transcript.

The academic transcript must be on the institution's official paper and must show:

- the name of the applicant;
- the name of the academic institution;
- the course title; and
- confirmation of the award.

This evidence must be an official document, on the official stationery of the organisation. It must have been issued by an authorised official of that organisation.

MAINTENANCE (FUNDS)

Maintenance requirement

204. One of the requirements of Tier 2 is that an applicant coming to the United Kingdom must be able to support himself/herself for the entire duration of his/her stay in the United Kingdom without use of public funds (benefits provided by the state). An applicant who is unable to support himself/herself could face financial hardship because he/she will not have access to most state benefits.

205. In order to qualify for entry clearance or leave to remain under Tier 2 an applicant must show that he/she has enough money to support himself/herself. The maintenance requirements are that applicants must show they have at least £800 of available funds.

206. This requirement can be met by:

- having personal savings of £800 which must have been held for at least three months immediately before the date of application; or
- his/her sponsor provides a written undertaking that, should it become necessary, it will maintain and accommodate the migrant until the end of the first month of employment. The sponsor may limit the amount of the undertaking but any limit must be at least £800. Please note, only A-rated sponsors will be able to certify an applicant's maintenance.

207. Applicants may want to check the potential costs of living in the United Kingdom. If an applicant does not expect to get any income from his/her work in the United Kingdom after the first month, he/she may want to check that he/she has enough money to support himself/herself and any dependants.

208. Any dependants wishing to join the main applicant must also provide evidence that they have access to sufficient funds. Please refer to the dependants guidance which can be found on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/>.

Claiming Points

209. An applicant will automatically be awarded points for the maintenance requirement, without the need to provide evidence, where he/she:

EITHER

- a) has entry clearance, leave to enter, or leave to remain as a:
 - Tier 2 Migrant;
 - Jewish Agency Employee;
 - Member of the Operational Ground Staff of an Overseas-owned Airline;
 - Minister of Religion, Missionary, or Member of a Religious Order;
 - Representative of an Overseas Newspaper, News Agency, or Broadcasting Organisation;
 - Work permit holder;

OR

- b) is applying for leave to remain as a Tier 2 (General) migrant and obtains points under the post study work provisions.

210. Applicants who are unable to obtain 10 points in the maintenance requirements section will not be successful in his/her application, even if he/she scores the required number of points for his/her given category and meets all other requirements of the Immigration Rules.

Supporting evidence

Evidence of own personal savings

211. The evidence to support personal savings of £800 for at least three months must be original, on the official letter-headed paper or stationery of the organisation and have the official stamp of that organisation. It must have been issued by an authorised official of that organisation.

212. The evidence of maintenance must be of cash funds in the bank (this includes savings accounts and current accounts even when notice must be given), loan or official financial or government sponsorship available to the applicant. Other accounts or financial instruments such as shares, bonds, pension funds etc, regardless of notice period, are not acceptable.

213. If the applicant wishes to rely on a joint account as evidence of available funds, he/she must be named on the account along with one or more other named individual.

214. Where the funds are in a currency other than pounds sterling, the amount we consider will be based on the exchange rate for the relevant currency on the date of the application, taken from the rates published on www.oanda.com.

215. Only the following specified documents will be accepted as evidence of this requirement:

i) Personal bank or building society statements covering three full consecutive months

The most recent statement must be dated no earlier than one calendar month before the date of the application.

The personal bank or building society statements should clearly show:

- the applicant's name;
- the account number;
- the date of the statement;
- the financial institution's name and logo;
- transactions covering the three month period;
- that there are enough funds present in the account (the balance must always be at least £800).

Ad hoc bank statements printed on the bank's letterhead are admissible as evidence (This excludes mini-statements from ATMs).

If the applicant wishes to submit electronic bank statements from an online account these must contain all of the details listed above. In addition, the applicant will need to provide a supporting letter from his/her bank, on company headed paper, confirming the authenticity of the statements provided. Alternatively an electronic bank statement bearing the official stamp of the bank in question will be accepted. This stamp should appear on every page of the statement.

We will not accept statements which show the balance in the account on a particular day as these documents do not show that the applicant holds enough funds for the full period needed.

ii) Building society pass book

The building society pass book should clearly show:

- the applicant's name;
- the account number;
- the financial institution's name and logo;
- any transactions covering the three month period immediately before the date of the application;
- that there have been enough funds present in the account throughout the three month period immediately before the date of the application (the balance must always have been at least £800).

iii) Letter from bank confirming funds and that they have been in the bank for at least three months

The letter from a bank or building society should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in the applicant's account; and

- that the funds of £800 have been in the bank for at least three consecutive months on and immediately before the date of the letter.

The date of the letter must be no more than one calendar month before the date of the application.

We will not accept letters which show the balance in the account on a particular day as these documents do not show that the applicant holds enough funds for the full period needed.

iv) Letter from a financial institution regulated by either the Financial Services Authority or, in the case of overseas accounts, the home regulator (official regulatory body for the country in which the institution operates and the funds are located) confirming funds

The letter from the financial institution regulated by the Financial Services Authority or home regulator should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in the applicant's account; and
- that the funds of £800 have been in the bank for at least three consecutive months on and immediately before the date of the letter.

The date of the letter must be no more than one calendar month before the date of the application.

We will not accept letters which show the balance in the account on a particular day as these documents do not show that the applicant holds sufficient funds for the full period needed.

Evidence of the sponsor certifying the maintenance

216. The evidence of the sponsor certifying the maintenance must be a letter from the A-rated sponsor. The letter, which can be posted, faxed or scanned and e-mailed to the applicant, must be on official letter-headed paper or stationery of the organisation, be signed by a senior official and must show:

- the applicant's name;
- the applicant's certificate of sponsorship reference number;
- the sponsor's name and logo;
- confirmation that the sponsor has certified the maintenance; and
- details of limiting the undertaking if appropriate.

AGE REQUIREMENTS

217. In order to be granted entry clearance or leave to remain the applicant must be at least 16 years old on the date that the application is decided.

SUPPLEMENTARY EMPLOYMENT

218. An applicant can undertake work that is supplementary to that for which his/her certificate of sponsorship has been issued. Supplementary employment must meet the following criteria:

- must be in the same profession at the same professional level as the work for which the certificate of sponsorship was issued;
- must be no more than 20 hours per week;
- must be outside of the applicant's normal working hours for which his/her certificate of sponsorship was issued.

219. The applicant must continue to work for the sponsor in the employment that the certificate of sponsorship records that he/she is being sponsored to do.

220. Applicants do not need to advise us of any supplementary employment they undertake, as long as it meets the above stated criteria.

221. Applicants can undertake voluntary work in any sector. Applicants must not be paid or receive other payment for their work (except reasonable expenses outlined in section 44 of the National Minimum Wage Act), please see: http://www.opsi.gov.uk/acts/acts1998/ukpga_19980039_en_1.

SECONDARY EMPLOYMENT

222. Applicants can apply to undertake work that does not meet the supplementary employment criteria, for example further employment which is over 20 hours per week or in an unrelated profession. This work, however, will need to be with a licensed sponsor and the applicant will need a new certificate of sponsorship from that sponsor (see section on what is a live certificate of sponsorship).

223. The applicant should apply for secondary employment after starting work with his/her first sponsor. The applicant will have to meet the points threshold and criteria relevant to the category. The applicant cannot start work with their second sponsor until their application for secondary employment has been approved.

224. The applicant must submit a fresh application, and must include a letter with his/her application explaining that he/she wishes to vary his/her existing leave. The letter must also include:

- the applicant's name;
- the applicant's date of birth;
- the applicant's certificate of sponsorship reference number (from the application he/she wishes to vary); and
- confirmation of the date his/her current leave expires.

CHANGE OF EMPLOYMENT

225. An applicant, who has previously received permission to enter or remain in the United Kingdom under Tier 2, can apply to change employment, either within the same organisation or with a new organisation. This application will be treated as an initial application, and the work will need to be with a licensed sponsor. The applicant must have a new certificate of sponsorship and he/she must meet all the points requirements. The applicant cannot start work in their new job until their change of employment application has been approved.

226. An applicant will not need to resubmit evidence of meeting qualifications or the English language or maintenance requirements where he/she has already provided evidence that these requirements have been met. Where this evidence has not been submitted previously it must be submitted at the time of application or the application will be refused.

CHANGE OF CIRCUMSTANCES

227. If during an applicant's period of employment, he/she wishes to amend:

- personal details; or
- criminal convictions; or
- contact details; or
- representative details; or
- dependants' details

he/she should inform his/her sponsor and fill out a change of circumstances form which can be found on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/migrantchangeofcircumstances.pdf>.

This should be sent to:

UK Border Agency
PO Box 3468
Sheffield
S3 8WA

228. If we consider that the intended change can be treated as a change of circumstances we will confirm this in writing and the applicant should keep this letter with the original documents.

MULTIPLE PERIODS OF EMPLOYMENT IN THE UNITED KINGDOM

229. If an applicant is based overseas and is required to enter the United Kingdom on a regular basis he/she may be issued with a multiple entry certificate of sponsorship.

230. This type of certificate is not required by a migrant wishing to travel overseas for leisure or domestic purposes or where the migrant is based in the United Kingdom and required to travel overseas on business.

231. Where an applicant has entry clearance, or has been granted leave to remain for more than six months, he/she will not be required to obtain a new certificate of sponsorship in order to return to the United Kingdom for each period of employment.

232. However, if an applicant who does not have entry clearance or has been granted less than six months leave to remain leaves the common travel area (the United Kingdom,

Channel Islands, Isle of Man and Republic of Ireland collectively form a common travel area) his/her leave will lapse. In these circumstances the applicant will not be able to re-enter the United Kingdom with that leave and will need to apply for fresh leave after the sponsor has assigned a new certificate of sponsorship.

ABSENCES FROM THE UNITED KINGDOM

233. An applicant may be required to be seconded overseas during the time he/she is employed in the United Kingdom. A new certificate of sponsorship will not be required if he/she returns to the United Kingdom before his/her leave expires or lapses.

234. Where an applicant's leave has lapsed on leaving the common travel area (the United Kingdom, Channel Islands, Isle of Man and Republic of Ireland collectively form a common travel area) or while he/she is overseas or expired while he/she is overseas the applicant will need to apply for fresh leave after the sponsor has assigned a new certificate of sponsorship.

TRANSITIONAL ARRANGEMENTS

235. Holders of valid work permits, multiple entry work permits and Training and Work Experience Scheme permits, should continue to apply for entry clearance or leave to remain under the rules for these categories, which will remain in force after Tier 2 goes live. Guidance on these applications can be found at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/workpermits/>.

236. The following transitional arrangements are only for in-country applicants applying for further leave to remain.

237. For all applications under the transitional arrangements, applicants must not have currently been in the United Kingdom in a combination of any of the categories stated in paragraphs 241, 246, 250 or 252 for a total period of five years or more. Where an applicant wishes to extend his/her leave beyond five years under the points based system, he/she must apply under the full points based system criteria.

238. For all applications under the transitional arrangements, the applicant must continue to be working for the same employer doing the same job. The exception to this is applicants applying under the senior care worker or established entertainer provisions.

239. Applicants currently on a multiple entry work permit cannot make an application under the transitional arrangements; a fresh application must be submitted if a further period is required. The application must be made from an applicant's normal country of residence and will be subject to the full points based system criteria.

240. Applicants who currently have leave under the Training and Work Experience Scheme arrangements are not able to apply for an extension under these transitional arrangements.

Transitional arrangements - Tier 2 (General)

241. An applicant can apply under the Tier 2 (General) transitional arrangements where he/she has, or was last granted leave as a:

- Business and Commercial work permit holder (except multiple entry work permits); or
- Sports and Entertainment work permit holder (except multiple entry work permits); or
- representative of an overseas newspaper, news agency or broadcasting organisation; or
- member of the operational ground staff of an overseas-owned airline; or
- Jewish Agency employee; or
- Tier 2 (General) migrant, but only if, when he/she received his/her last grant of leave, he/she was awarded points under these transitional arrangements;

242. Such applications must comply with the following conditions:

- the applicant must have a certificate of sponsorship reference number issued by a licensed sponsor; and
- the certificate of sponsorship must confirm that the job is at N/SVQ level 3 (except where an applicant is applying under the senior care worker or established entertainer provisions); and
- the job must be paid at or above the appropriate rate.

243. Applicants will not have to meet the full points based system Tier 2 criteria (qualifications, prospective earnings, Resident Labour Market Test).

244. Applicants will be awarded 10 points for both English language and maintenance requirements.

Change of employment under the transitional arrangements

245. Where existing work permit holders seek a change of employment (excluding those applying under the senior care worker provisions) after Tier 2 comes in to force, they will need to apply under the points based system and meet full Tier 2 criteria.

Transitional arrangements - Tier 2 (Intra Company Transfer)

246. An applicant can apply under the Tier 2 (Intra Company Transfer) transitional arrangements where he/she has, or was last granted, leave as a:

- qualifying work permit holder, provided the work permit was granted because the applicant was the subject of an intra company transfer; or
- Tier 2 (Intra Company Transfer) migrant, but only if, when he/she received his/her last grant of leave, he/she was awarded points under these provisions (transitional arrangements).

247. Such applicants must comply with the following conditions:

- the applicant must have a certificate of sponsorship reference number issued by a licensed sponsor; and
- the certificate of sponsorship must confirm that the job is at N/SVQ Level 3 (except where an applicant is applying under the senior care worker or established entertainer provisions); and
- the job must be paid at or above the appropriate rate.

248. Applicants will not have to meet the full points based system Tier 2 criteria (qualifications, prospective earnings, Resident Labour Market Test).

249. Applicants will be awarded 10 points for both English language and maintenance requirements.

Transitional arrangements - Tier 2 (Minister of Religion)

250. An applicant can apply under the Tier 2 Minister of Religion transitional arrangements where he/she has, or was last granted, leave as a:

- minister of religion; or
- missionary; or
- member of a religious order

251. Applicants will be awarded 10 points for both English Language and maintenance requirements. No resident labour market test is required.

Transitional arrangements - Tier 2 (Sportsperson)

252. An applicant can apply under the Tier 2 (Sportsperson) transitional arrangements where he/she has, or was last granted, leave as a qualifying work permit holder.

253. Such applicants must comply with the following conditions:

- the applicant must have a certificate of sponsorship reference number issued by a licensed sponsor; and,
- the applicant must have a governing body endorsement.

254. Applicants will be awarded 10 points for both English Language and maintenance requirements.

Transitional arrangements - senior care workers under Tier 2 (General) and Tier 2 (Intra Company Transfer)

255. An applicant can apply under the senior care worker provisions, where:

- he/she is applying as a Tier 2 (General) or Tier 2 (Intra Company Transfer) migrant;
- the certificate of sponsorship states that he/she is being sponsored as a senior care worker;

- his/her last grant of leave was as a work permit holder;
- the work permit that led to the last grant was issued to enable the applicant to work as a senior care worker.

256. Under the senior care worker provisions, an applicant will be able to apply under the transitional arrangements even if he/she changes sponsor. The applicant must, however, keep working as a senior care worker.

257. If an applicant under the senior care worker provisions wants to change his/her job to other than a senior care worker, he/she will need to apply under the points based system and meet the full requirements.

Transitional arrangements - established entertainers under Tier 2 (General) and Tier 2 (Intra Company Transfer)

258. An applicant can apply under the established entertainer provisions where he/she:

- is currently in the United Kingdom; and
- was last granted leave as a Sports and Entertainments work permit holder, working in an entertainments category; and
- has a Tier 2 (General) or Tier 2 (Intra Company Transfer) certificate of sponsorship which records that he/she is being sponsored in an occupation which is defined in our Transitional Guidance as being a job in the entertainment sector; and
- will continue to work in the entertainments sector in the same types of work as he/she has previously been established in by UK Border Agency.

259. Under the established entertainer provisions, an applicant will be able to apply under the transitional arrangements even if he/she changes sponsor. The applicant must, however keep working in an entertainment category for which he/she has previously

been granted a work permit. This may not necessarily be the work permit immediately before the current application but any previous grant of leave.

260. If an applicant under the established entertainer provisions wants to change his/her job to work in an entertainment category for which he/she has not previously been approved for a work permit, he/she will need to apply under the points based system and meet the full requirements.

ANNEX A: ADMINISTRATIVE REVIEW

(Entry clearance applications only)

1. What is Administrative Review?

Administrative Review is the mechanism for reviewing refusal decisions made under the Points Based System where an applicant believes an error has been made in the decision. The Administrative Review is free of charge.

Administrative Review is an entitlement but the request must be made within 28 days from the date the refusal notice is received by the applicant. For time limits for making a request, see further paragraphs 6 and 7 below.

Administrative Review is a non-statutory scheme; that is there is no legislation setting out what it covers or who is eligible to apply. The policy is contained in this guidance.

2. What if the Administrative Review request refers to matters outside the scope of the Administrative Review?

Where this occurs the matters should be dealt with under the normal complaints procedure. In such cases the applicant will be advised in writing.

3. Who conducts the Administrative Review?

An Entry Clearance Manager will conduct the administrative review. This may mean that in some cases, an Entry Clearance Manager from another Post will conduct the Administrative Review. The applicant may receive the result of the Administrative Review from an entry clearance post that is different to the one that considered the original entry clearance application.

4. Who can apply for Administrative Review?

Anyone refused entry clearance under Points Based System, where they believe the Entry Clearance Officer has made an incorrect decision.

5. How does the applicant apply?

The applicant will receive the Administrative Review Request Notice with the entry clearance refusal notice.

The applicant must complete the Request Notice in full and send it directly to the address stated on the Request Notice.

Applicants must not send any additional documents such as passport or supporting documents with the Administrative Review request notice. If the refusal is subsequently overturned, the applicant will be asked to send in their passport.

6. What is the deadline for applying for Administrative Review?

The applicant has 28 days from the date of receipt of the refusal notice, to submit a request for Administrative Review.

7. What if an application is submitted late?

Where an Administrative Review request is received outside the 28-day period, the administrative reviewer will consider if there are exceptional circumstances to accept the application outside of the deadline.

If the Administrative Review request is late and the administrative reviewer decides not to perform the Administrative Review, the request notice will be returned to the applicant with a letter explaining why it is not being accepted.

8. How many times can an applicant request an Administrative Review?

Applicants may request only one Administrative Review per refusal decision. Any further review requests received for the same refusal decision will not be accepted. They will be returned to the applicant.

However, where the Administrative Review upholds a refusal but with different refusal grounds, the applicant may request an administrative review of these new refusal grounds.

If the applicant has new or further information, documents or other paperwork that they failed to submit with their original application, they will need to make a new application and pay the appropriate fee.

9. How long will the Administrative Review take?

The administrative reviewer will complete their review and notify the applicant in writing of their decision within 28 days from the date of receipt of the Administrative Review request notice.

If, in exceptional circumstances, the administrative reviewer is unable to complete the Administrative Review within the 28 days, they will notify the applicant in writing as to when to expect a decision.

10. What will the administrative reviewer look at?

The administrative reviewer will examine the evidence submitted with the original application, copies of which will be kept at the refusal post.

The applicant is not allowed to provide new evidence. Any new evidence must be disregarded unless the applicant was refused under paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal (see paragraph 12).

Any new evidence submitted by the applicant must be returned to them together with the outcome of the Administrative Review.

11. How are Administrative Review decisions made?

The administrative reviewer should focus on the areas which the applicant has asked to be reviewed. They will check that:

- points have been correctly awarded;
- documents have been correctly assessed; and
- verification checks have been properly carried out.

The administrative reviewer may recommend that the reason for refusal should be overturned, if they find that the Entry Clearance Officer:

- failed to properly consider evidence submitted with the original application;
- failed to apply the Immigration Rules correctly;
- made a mistake in processing the application;
- failed to give adequate reasons for refusing entry clearance. In this case, the administrative reviewer will recommend the Entry Clearance Officer revoke the original refusal and serve a new refusal notice giving a full explanation for the refusal.

Where the administrative reviewer recommends in line with the above, that the reasons for refusal should be revoked, the applicant may still be refused but with new grounds for refusal.

The administrative reviewer will not recommend that the original decision is overturned simply because the applicant claims there is a fault with United Kingdom Border Agency's underlying processes or policies.

12. Does Administrative Review cover General Grounds for Refusal?

Yes. Administrative Review will also look at refusals on the basis of paragraph 320 of the Immigration Rules on "General Grounds for Refusal."

Reviews of refusals made under paragraphs 320(7A) and 320(7B) of the Immigration Rules

The applicant may submit further information with the Administrative Review request, if the refusal is based on paragraph 320 (7A) or 320 (7B) of the Immigration Rules on General Grounds for Refusal.

If an application has been refused because a false document was used or a false representation was made, the applicant may claim that they were unaware of the false documents or false representations. The refusal will still stand but the applicant would have to prove that they did not know that false documents or false representations were used, if they are not to have any future applications automatically refused for 10 years. Where the documents related directly to the applicant (for example, employment references, qualifications or financial details), such a claim would be likely to fail unless the applicant has clear evidence that an error has been made (for example, written confirmation from an employer, financial institution or educational establishment that they had supplied us with incorrect information at the time we verified the original documentation).

If the administrative reviewer does accept that the applicant did not knowingly use false documents or false representations, the refusal will still stand, but the applicant will not automatically have any future applications refused under the rules (paragraph 320 (7B) where false documents or false representations were used.

13. Does Administrative Review cover verification?

Yes. As part of the administrative review process the administrative reviewer will ensure that the Entry Clearance Officer has followed the correct verification procedures.

14. What are the possible outcomes of Administrative Review?

There are three possible outcomes of Administrative Review:

- Uphold decision, reasons for refusal remain the same;
- Uphold decision, with revised reasons for refusal;
- Overturn decision and issue entry clearance.

15. How is the applicant informed of the result of the Administrative Review?

Decision upheld and the reasons for refusal remain the same:

- the administrative reviewer will notify the applicant by letter. The applicant will not be entitled to a further Administrative Review as the grounds for refusal has not changed.

Decision upheld but with revised reasons for refusal:

- A new refusal notice (GV51) will be served along with the Administrative Review letter from the administrative reviewer stating why the refusal has still been upheld. If there are fresh reasons for refusal which were not notified originally, the applicant will be able to submit a further Administrative Review request limited to those fresh reasons.

Decision overturned and entry clearance to issue:

- The administrative reviewer will notify the applicant by letter and request the applicant's passport.

16. Limited Right of Appeal

The applicant can only appeal on any or all of the grounds referred to in section 84 (1) (b) and (c) of the Nationality, Immigration and Asylum Act 2002. These are that the decision is unlawful by virtue of section 19B of the Race Relations Act 1976 (discrimination by public authorities), and/or that the decision is unlawful under section 6 of the Human Rights Act 1998 (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights.

All entry clearance applicants under the Points Based System who are refused will be limited to residual grounds of appeal stated above.

The process for dealing with limited rights of appeal remains unchanged.