



**SECURING
OUR BORDER
CONTROLLING
MIGRATION**

**STATEMENT OF POLICY:
CHANGES TO TIER 1 OF THE
POINTS BASED SYSTEM**

March 2011



INTRODUCTION

On 23 November 2010, the Home Secretary announced the Government's plans to reform Tiers 1 and 2 of the Points Based System. We have set out separately how the limit of 20,700 visas for Tier 2 (General) in 2011/12 will operate.

For Tier 1, as part of the Government's commitment to attract the brightest and best to the UK, we will introduce a new Exceptional Talent category, limited to 1000 visas in 2011/12, and will make changes to the Investor and Entrepreneur routes to make them more attractive to prospective applicants. This statement contains more detail as to how each of these routes will operate, ahead of implementation on 6 April 2011.

As previously announced, Tier 1 (General) will close from 6 April for in-country applicants (and is already closed for out of country). Transitional arrangements for existing Tier 1 migrants can be found in the Tier 2 Statement of Intent published on 8 February 2011. Tier 1 (Post Study Work) was the subject of our recent consultation on the student routes and our plans for this route will be announced in line with the wider student package.

The Government will review annually the level and scope of the limit for future years.

TIER 1 – HIGH VALUE MIGRANTS

This Statement of Policy covers:

- Entrepreneurs – for those investing in the UK by setting up or taking over, and being actively involved in the running of, a business.
- Investors – for high net worth individuals making a substantial financial investment in the UK.
- Exceptional Talent – for persons of exceptional talent in the fields of arts, science and humanities.

Appendix A contains an at a glance summary of the Tier 1 framework.

TIER 1 INVESTORS

Investors told us that what they value most is the ability to achieve settlement more quickly in the UK and to be able to spend longer periods outside the UK without losing their eligibility for settlement. Therefore we will accelerate the route to settlement for larger investors and allow increased absences from the UK when considering applications for

settlement. Those investing £10m or more may apply for settlement after 2 years, and those investing £5m or more may apply after 3 years. Investors may spend up to 180 days a year outside the UK, instead of the current 90, without losing their eligibility for settlement.

Entry requirement	<ul style="list-style-type: none">• £1m held in a regulated financial institution and disposable in the UK.• No English language or maintenance requirement.• General Grounds for Refusal will apply.
Grants of leave	<ul style="list-style-type: none">• 3 years and 4 months initial grant.• 2 year extension available if required.
Qualifying period for settlement	<ul style="list-style-type: none">• 5 years if £1m invested (as at present); or• at the point at which £5m has been invested for 3 years; or• at the point at which £10m has been invested for 2 years.
Investment criteria	<ul style="list-style-type: none">• As at present.• 25% of the total investment may be comprised of prescribed assets.
Allowable absences	<ul style="list-style-type: none">• 180 days in any 12 months.
Dependants	<ul style="list-style-type: none">• Granted leave in line with main applicant.

INVESTORS ALREADY IN THE UK

Any existing Tier 1 Investor with these larger qualifying sums already invested in the UK will be able to avail themselves of this accelerated route to settlement despite entering before the policy was commenced.

TIER 1 ENTREPRENEURS

ENTREPRENEURS

Entrepreneurs told us they needed to spend time in the UK securing financial backing and making business arrangements before reaching the point where they would qualify for a Tier 1 Entrepreneur visa. Therefore we will introduce a new Prospective Entrepreneur visit visa outside of the Points-Based system which will allow those who secure backing to switch into a Tier 1 visa without leaving the UK. Entrepreneurs also told us they wanted more flexibility to work with a business partner on a single project, to invest smaller sums in innovative start-ups, more time to register their businesses and, like investors, to have an accelerated route to settlement and greater scope to spend time outside the UK. We shall provide these opportunities for successful entrepreneurs. For example an entrepreneur may apply for settlement after 3 years, instead of after 5, where he has created 10 sustainable jobs or generated £5m turnover over the 3 year period.

PROSPECTIVE ENTREPRENEUR VISA

The new visa will enable individuals who are currently in discussions with one or more FSA-registered venture capitalist firms, UK Trade and Investment recognised seed competition, or UK government departments, to enter to secure funding in order to join, set up or take over, and be actively involved in the running of, a business in the UK.

A full list of allowable activities and evidential criteria can be found in UK Border Agency's entry clearance guidance. Successful applicants will be granted six months leave to enter. This will not be extendable but they will be able to switch into the Tier 1 Entrepreneur category where they meet the criteria.

ENTREPRENEURS ALREADY IN THE UK

Any existing Tier 1 Entrepreneur who entered before 6 April but meets the accelerated settlement criteria will be able to apply for settlement under the new rules.

The new Tier 1 Entrepreneur category

Initial application for leave to enter or remain	<ul style="list-style-type: none">• Must have access to at least £200k held in a regulated financial institution; or• Have access to of £50k held in a regulated financial institution which has been funded by:<ul style="list-style-type: none">- An FSA registered Venture Capitalist firm;- A UK Government Department; or- An entrepreneurial seeding competition recognised by UK Trade and Investment.• Must meet English language and maintenance requirements.• General Grounds for Refusal will apply.
Entrepreneurial pairs	<ul style="list-style-type: none">• Pairs of entrepreneurs will be able to access the route without the need for increased levels of funding.• Both entrepreneurs will need equal access to funds set out above.
Initial grant of leave	<ul style="list-style-type: none">• 3 years and 4 months initial grant.• 2 year extension available if required.• Registration (e.g. with HMRC) within 6 months of entry (currently 3 months);
Extension criteria	<ul style="list-style-type: none">• Investment in business made;• Actively engaged in the business;• Creation of 2 full time equivalent posts for at least 12 months.• No need to pass English and maintenance tests again.
Settlement	<ul style="list-style-type: none">• May apply for accelerated settlement at any point after three years if:<ul style="list-style-type: none">- 10 full time equivalent posts for resident workers have been created for at least 12 months; or- the company has generated a total turnover of £5m over a three year period.• May otherwise qualify for ILR after 5 years, as with current guidance.
Allowable absences	<ul style="list-style-type: none">• 180 days in any 12 months.
Dependants	<ul style="list-style-type: none">• Granted leave in line with main applicant.

TIER 1 EXCEPTIONAL TALENT

On 6 April 2011 the Government will introduce a new route for exceptionally talented migrants in the fields of science, arts and humanities who wish to work and eventually settle in the UK. We will apply a limit of 1,000 places in the first year of operation, to be reviewed after 12 months.

The route will be open to those who are internationally recognised as world leaders in their field; and also to those migrants who show exceptional promise and who are likely to become internationally recognised world leaders in their field.

Migrants seeking entry under the Tier 1 Exceptional Talent category will not need sponsorship by an employer but we will require that they are endorsed by a designated Competent Bodies who are expert within these fields. The role of the Competent Body will be to vouch to the UK Border Agency that in their opinion the migrant is exceptionally talented. Decisions on applications will be taken by the UK Border Agency taking account of wider background checks but we do not expect to contradict an endorsement by the Competent Body as to the status of the migrant in their field.

It will be for each such Competent Body to set the criteria it will operate to select those who will qualify for endorsement. There will be no single definition of “exceptional talent”. The limit on the number of places however reflects the fact that we expect this route to be reserved for world leaders in their field, or potential leaders. Tier 2 will continue to be the mainstream route for those coming to work in the UK.

A list of Competent Bodies will be available on the UK Border Agency website in due course. Each body will set out its procedures for receiving and processing requests for endorsements. Please note that an application will be refused if it does not contain an endorsement from a designated Competent Body. Prospective applicants will not therefore be able to make an application until the Competent Bodies are in place. We are aiming to do this during April.

In 2011/12, the Exceptional Talent visa will only be available to those applying from outside the UK.

Entry requirement	<ul style="list-style-type: none"> • Must be endorsed by a designated Competent Body. • No English language or maintenance requirement. • General Grounds for Refusal will apply.
Extension requirements	<ul style="list-style-type: none"> • Intermediate level English. • Must be economically active in their field of expertise.
Grants of leave	<ul style="list-style-type: none"> • 3 years and 4 months initial grant. • 2 year extension.
Qualifying for settlement	<ul style="list-style-type: none"> • May qualify for ILR after 5 years. • Must be economically active in their field of expertise. • Knowledge of life test will apply
Dependants	<ul style="list-style-type: none"> • Granted leave in line with main applicant.

APPENDIX A: TIER 1 AT A GLANCE

Initial application				
Route	Specific criteria	English	Maintenance	General Grounds for Refusal
Entrepreneur	£200,000 held in a regulated financial institution and disposable in the UK; or £50,000 in funding from a prescribed source.	Required	Required	Applicable
Investor	£1 million held in a regulated financial institution and disposable in the UK.	Exempt	Exempt	Applicable
Exceptional Talent	Must be endorsed by a designated competent body.	Exempt	Exempt	Applicable

APPENDIX A: TIER 1 AT A GLANCE

Staying in the UK				
Extension criteria	Typical settlement period	Accelerating settlement	Dependants	Leave
Investment in business made; registration (e.g. with HMRC) within 6 months of entry; actively engaged in the business; creation of 2 full time equivalent posts for at least 12m. No need to pass English and maintenance tests again.	May qualify for ILR after 5 years, as with current guidance.	May apply for settlement at any point after three years if: <ul style="list-style-type: none"> • 10 full time equivalent posts for resident workers have been created for at least 12 months; or • the company has generated £5m in turn over within a three year period. 	Permitted	3 years 4 months followed by 2 years.
£750,000 invested as permitted within 3 months of entry, the investment maintained throughout the period of leave. No English and Maintenance tests.	After 5 years if £1m invested (as at present)	May apply for settlement <ul style="list-style-type: none"> • at the point at which £5m has been invested for 3 years; or • at the point at which £10m has been invested for 2 years. 	Permitted	3 years 4 months followed by 2 years if necessary.
B1 level English and must be economically active.	After 5 years	Not applicable	Permitted	3 years 4 months followed by 2 years.

Key



Entrepreneur



Investor



Exceptional Talent