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1. Introduction

The following guidance is to be used by caseworkers in the assessment of applications for indefinite leave to remain for those with leave to remain in the UK as a Tier 1 (General) Migrant, Tier 1 (Investor) Migrant or as a Tier 1 (Entrepreneur) Migrant.

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2. Forms

A person applying for indefinite leave to remain in any of the categories above must use the specified application form – SET(O).

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3. Knowledge of Language and Life in the UK

In addition to the individual requirements of each migration category, applicants over the age of 18 and under the age of 65 are required to meet a Knowledge of Language and Life in the UK test.

Any application for indefinite leave to remain submitted on or after 31 March 2009 which does not meet the Knowledge of Language and Life requirement should be refused.

However caseworkers should note that transitional arrangements remain in place for those indefinite leave to remain applications submitted between 2 April 2007 and 30 March 2009 (inclusive), Where the applicant meets all of the immigration rules for indefinite leave to remain but does not meet the Knowledge of Language and Life requirement, the application should automatically be considered as one for further leave to remain in the original category of leave. Such applications that fall under the transitional arrangements should be referred back to the operational team that considered their most recent application for further leave to remain.

Full guidance on this requirement can be found in [Chapter 1 Section 18 of the IDIs.](#)

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4. Tier 1 (General)

The full requirements for someone applying for indefinite leave to remain under this category are detailed in Paragraph 245E of the immigration rules and these are listed below.

To qualify for indefinite leave in this capacity, the applicant must meet the requirements listed below. If the applicant does not meet these requirements, the application will be refused.

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4.1 Requirements for indefinite leave to remain – paragraph 245E:

The immigration rules state the following requirements:

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

(b) The applicant must have spent a continuous period of five years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (General) Migrant, and the rest may be made up of leave in any combination of the following categories:

(i) as a Tier 1 (General) Migrant,

(ii) as a Highly Skilled Migrant,

(iii) as a Work Permit Holder,

(iv) as an Innovator,

(v) as a Self-Employed Lawyer,

(vi) as a Writer, Composer or Artist, or

(vii) as a Tier 2 Migrant.

(c) The applicant must be economically active in the UK, in employment or self-employment or both.

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

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4.2 Conditions of leave to remain as a Tier 1 (General) Migrant

One of the requirements that must be satisfied in order to grant indefinite leave to remain is that the applicant does not fall for refusal under the [general grounds for refusal](#). Therefore, in order to qualify for indefinite leave to remain an applicant must not have breached the conditions of the preceding grant of leave to remain. Where an applicant is found to be in breach of those conditions, the application would fall for refusal on general grounds.

Leave to remain under this route is subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by [paragraph 326 of the immigration rules](#), and

(iii) no Employment as a Doctor in Training, unless the applicant:

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

In addition, further to [casework instruction 103/612](#), applicants who are currently on an NHS Foundation Programme or are working as a Doctor in Training and were previously granted free access to the labour market (leave granted on Code 1 conditions only) are also not subject to such employment restrictions.

In order to qualify for this exemption the applicant should provide the following evidence in addition to the documents specified in the relevant Tier 1 guidance notes:

To prove that they are on the Foundation Programme- a letter from their Postgraduate Dean that satisfies the requirements of the [Immigration Directorate Instruction \(IDI\) on Postgraduate Doctors and Dentists \(see in particular page 17 of that IDI\)](#) confirming that:

- the applicant has a place on a Foundation Programme; and
- the Foundation Programme is recognised by the medical community; and
- the place on the Foundation Programme is full time.

To prove that they are working as a Doctor in Training- the applicant must provide a letter from the NHS Trust employing them, confirming that they are working in a post/programme that has been approved by the Postgraduate Medical Education and Training Board as a training programme or post.

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4.3 Supporting evidence required

Applicants applying for indefinite leave to remain on completing five years' continuous stay in the UK should provide the following supporting evidence:

- Evidence that the applicant is economically active in the UK in employment or self-employment or both at the time the application is made. This evidence should take the form of documents showing the applicant's personal earnings

(if they are employed) or the progress of the business (if they are self-employed).

Some examples of this may be:

- For a salaried employee, formal payslips or on company headed paper. If the payslips are not provided on company headed paper or they receive their payslips on line, the payslips should be stamped and signed by the employer or alternatively a letter should be provided on the employer's company headed paper confirming the applicant's earnings.
- If an applicant has worked in a self-employed capacity and has chosen to keep their earnings within the company structure, a letter from their accountant may be provided or alternatively evidence to show their company is actively trading in the UK at the time the application is made.

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4.4 Continuous period of five years

Information on how to calculate whether an applicant meets the continuous leave requirement can be found at [Annex A.](#)

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4.5 Applicants affected by the HSMP Forum judicial review judgments

The HSMP Forum Ltd brought two separate judicial reviews against the SSHD.

The first of these was on the grounds that migrants who joined the Highly Skilled Migrant Programme (HSMP) before December 2006 had a legitimate expectation that they would not be affected by any subsequent revisions to the HSMP criteria after they entered the scheme. On 8 April 2008 the High Court ruled in the favour of the HSMP Forum LTD on this point and remedies were published in the [HSMP Forum Ltd Judicial Review Policy Document](#).

The second judicial review was brought on the grounds that the first judgment included ILR and that consequently the remedies put in place after the first High Court ruling should have allowed those HSMP participants who commenced their journey on HSMP prior to 3 April 2006 to gain ILR after four years rather than five. On 6 April 2009 the High Court ruled in favour of the HSMP Forum LTD on this and remedies were published in the [HSMP Indefinite Leave to Remain \(ILR\) judicial review; policy document](#).

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Consideration of applications covered by the High Court ruling of 6 April 2009

In order to be covered by the High Court ruling an applicant must:

- Have received a HSMP approval letter issued on the basis of an application made on or before 3 April 2006; and
- Have been granted entry clearance or Leave to Remain (LtR) on the basis of that letter.

Where an applicant meets the above criteria their application should be assessed under the following requirements:

- a. The migrant has spent a continuous period of four years lawfully in the United Kingdom, of which the most recent period must have been spent with leave as a highly skilled migrant, and the remainder must be made up of leave as a highly skilled migrant, leave as a work permit holder (under paragraphs 128 to 133 of the Immigration Rules), leave as an Innovator (under paragraphs 210A to 210F of the Immigration Rules) or leave as a Tier 1 (General) migrant
- b. The migrant applied to enter onto the HSMP before the qualifying period for Indefinite Leave to Remain (ILR) was increased from four to five years on 03 April 2006, and was successful in that application
- c. Throughout the four years spent in the United Kingdom the migrant has been able to maintain and accommodate himself and any dependants adequately without recourse to public funds
- d. The migrant is lawfully economically active in the United Kingdom in employment, self-employment or a combination of both

In considering whether an application meets the continuous residence requirement, consideration should be given to where leave has been [deemed as spent under HSMP by virtue of the first judicial review remedies](#). This allowed the following periods to be included in any calculation of continuous residence:

- any valid leave obtained prior to the April 2008 judgment;
- Tier 1 (General) leave issued under the terms of the HSMP Forum Ltd Judicial Review Policy document;
- the time between the end of the applicant's HSMP leave and the start of the Tier 1 (General) leave issued under the terms of the policy document ;
- any valid subsequent leave

Caseworkers will be able to identify those applicants who have been granted Tier 1 (General) leave under the terms of the first policy document by reference to the title of the case type on CID and from the associated case comments. The case type prefix will be Tier 1 (Gateway), for those granted further leave in the UK. Those approved further leave at post overseas under the terms of this policy document can be identified by reference to the case comments on CRS (International Group's database of visa applications). In addition, applicants affected by the judgment have been advised to submit their approval letter issued in light of the High Court judgment with any subsequent application for settlement.

A migrant who does not have current leave as a highly skilled worker will not qualify for ILR as a highly skilled worker and must first successfully apply to be re-instated as a highly skilled worker before they can apply for ILR from that category. Migrants who gain re-instatement under these provisions and, as a result, complete the qualifying period for applying for ILR, will then need to make a separate application for ILR as a Tier 1 (General) Migrant.

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Refusals of applications made under the HSMP Indefinite Leave to Remain (ILR) Judicial Review Policy Document.

Where an application is considered as falling for refusal on one of the HSMP specific criteria, caseworkers should refer the case via their SCW to Employment Policy. This should be done via email to employmentpolicy@ukba.gsi.gov.uk providing the following information:

- Applicant's name:
- Reference number (so the application can be identified on GCID):
- Reason application is being considered for refusal:

Where the application falls for refusal **solely** on General Grounds the application can be refused in the usual manner without referring to employment policy.

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Consideration of applications covered by the High Court ruling of April 2008

In addition to those covered by the second judgment (detailed above) there is a separate group who applied to enter the HSMP between the change in the ILR Rules in April 2006 and the change in the HSMP extension criteria in November 2006.

Applicants who fall into this category (and are not included in the second judgment) will still be required to meet the continuous leave requirement as specified in the Immigration Rules (currently 5 years). However, due to the fact that some of this cohort may have spent time not covered by HSMP leave as a direct result of the changes to the extension Rules, the following factors should be considered when calculating continuous residence for this group.

- any valid leave obtained prior to the judgment;
- Tier 1 (General) leave issued under the terms of the HSMP Forum Ltd Judicial Review Policy document;
- the time between the end of the applicant's HSMP leave and the start of the Tier 1 (General) leave issued under the terms of the policy document;
- any valid subsequent leave

Caseworkers will be able to identify those applicants who have been granted Tier 1 (General) leave under the terms of this policy document by reference to the title of the case type on CID and from the associated case comments. The case type prefix will be Tier 1 (Gateway), for those granted further leave in the UK. Those approved further leave at post overseas under the terms of this policy document can be identified by reference to the case comments on CRS (International Group's database of visa applications). In addition, applicants affected by the judgment have been advised to submit their approval letter issued in light of the High Court judgment with any subsequent application for settlement.

A migrant who does not have current leave as a highly skilled worker will not qualify for ILR as a highly skilled worker and must first successfully apply to be re-instated as a highly skilled worker before they can apply for ILR from that category. Migrants who gain re-instatement under these provisions and, as a result, complete the

qualifying period for applying for ILR, will then need to make a separate application for ILR as a Tier 1 (General) Migrant.

4.6 Granting settlement

If all the above requirements have been met, settlement may be granted

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5. Tier 1 (Entrepreneur)

The full requirements for someone applying for indefinite leave to remain under this category are detailed in Paragraph 245N of the immigration rules and these are listed below.

If the applicant does not meet these requirements, the application will be refused.

In addition to the general requirements of the immigration rules, the applicant must also show that they are engaged in business activity at the time of the application for indefinite leave to remain.

The applicant must provide the specified evidence shown in section C of the extension application in the guidance notes for the Tier 1 (Entrepreneur) category, as listed below in the [supporting evidence required](#) section.

In addition to the general requirements the applicant must also show that they are engaged in business activity at the time of the application for indefinite leave to remain.

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5.1 Requirements for indefinite leave to remain - paragraph 245N

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

(b) The applicant must be engaged in business activity at the time of his application and the applicant must provide specified evidence to show this.

(c) The applicant must have spent a continuous period of five years lawfully in the UK, of which the most recent period must have been spent with leave as a Tier (1) (Entrepreneur) Migrant, and the rest may be made up of leave in any combination of the following categories:

(i) as a Tier 1 (Entrepreneur) Migrant,

(ii) as a Business Person,

(iii) as an Innovator.

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

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5.2 Conditions of leave to remain as a Tier 1 (Entrepreneur) Migrant

One of the requirements that must be satisfied in order to grant indefinite leave to remain is that the applicant does not fall for refusal under the general grounds for refusal. Therefore, in order to qualify for indefinite leave to remain an applicant must not have breached the conditions of the preceding grant of leave to remain. Where an applicant is found to be in breach of those conditions, the application would fall for refusal on general grounds.

Leave to remain under this route is subject to the following conditions:

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by [paragraph 326 of the immigration rules](#), and
- (iii) no employment other than working for the business(es) the applicant has established, joined or taken over.

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5.3 Supporting evidence required

An applicant applying for indefinite leave to remain on completing five years' continuous stay in the UK made up of leave as a Tier 1 (Entrepreneur) Migrant and prior leave as a Business Person or Innovator must provide the following documents:

- Evidence that they are engaged in business activity at the time of application and have been given leave to remain as a Tier 1 (Entrepreneur) Migrant. This should include one of the following documents:

Self-employed applicants

Evidence of the payment of Class 2 National Insurance contributions if the applicant is self-employed. Such evidence should be one of the following:

- The applicant's National Insurance bill for the quarter immediately before this application if they pay quarterly; or the applicant's most recent bank statement showing payment to HM Revenue and Customs if they pay by direct debit; or

- A Small Earnings Exception certificate issued by HM Revenue and Customs if the applicant has very low earnings and has applied for the small earnings exception.

Applicants who are company directors

- A current appointment report from Companies House. The report must be dated within three months of this application and must name the applicant as a director of a business that is actively trading and not struck-off, dissolved or in liquidation when the appointment report was printed out.

5.4 Continuous period of five years

Further information on how to calculate whether an applicant meets the continuous leave requirement can be found at [Annex A](#).

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5.5 Granting settlement

If all the above requirements have been met, settlement may be granted.

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6 Tier 1 (Investor)

The full requirements are detailed in Paragraph 245U of the immigration rules, and these are listed below.

To qualify for indefinite leave in this capacity, the applicant must meet the requirements listed below. If the applicant does not meet these requirements, the application will be refused.

The requirements for indefinite leave to remain as a Tier 1 (Investor) Migrant differ slightly depending on whether the individual's continuous period of five years leave in the UK was spent:

- fully as a Tier 1 (Investor) Migrant or
- most recently as a Tier 1 (Investor) Migrant but prior to that in the former Investor category.

General guidance on indefinite leave to remain requirements are in [Chapter 5 section 1 Annex F of the Immigration Directorate Instructions \(IDI\)](#).

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6.1 Requirements for indefinite leave to remain - paragraph 245U

The immigration rules state the following requirements:

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

(b) The applicant must have spent a continuous period of five years lawfully in the UK, as a Tier 1 (Investor) Migrant .

(c) The applicant must have maintained the investment referred to in [Table 8 of Appendix A of the immigration rules](#) throughout the period of five years referred to in subparagraph (b) above other than in the first three months of that period and must provide specified documents to show that this requirement has been met.

(d) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to [paragraphs 33B to 33D of the immigration rules](#), unless the applicant is under the age of 18 or aged 65 or over at the time the application is made. With regard to c) above, the three month period will run from either;

- The date of entry to the United Kingdom in the case of an applicant granted clearance as a Tier 1(Investor) Migrant where there is evidence to establish the applicant's date of entry to the United Kingdom;

or

- The date of the applicant's grant of entry clearance, in the case of an applicant granted entry clearance as a Tier 1 (Investor) Migrant where there is no evidence to establish the applicant's date of entry to the United Kingdom;

or

- The date of the applicant's grant of leave to remain as a Tier 1 (Investor) Migrant, in any other case except where the applicant has, or was last granted, entry clearance, leave to enter or leave to remain as an Investor.

Caseworkers should note that although the immigration rules at the indefinite leave to remain stage request that evidence be provided to demonstrate that the investment has been maintained for the full five years, the conditions to grant further leave to remain from the former Investor category only require evidence to demonstrate that the investment is made before the applicant applies to extend their permission to stay. Consequently, where an applicant has prior leave under the former Investor category, caseworkers should not insist that supporting evidence be provided to cover the full period of this leave and a decision to refuse a case on the non-provision of such documents would not be appropriate. The specified supporting evidence referred to in [Table 8 of Appendix A](#) of the immigration rules will however

be required to cover the full period of subsequent leave as a Tier 1 (Investor) Migrant.

General guidance on indefinite leave to remain requirements are in [Chapter 5 section 1 Annex F of the Immigration Directorate Instructions \(IDI\)](#).[\(Back\)](#)

6.2 Conditions of leave to remain as a Tier 1 (Investor) Migrant

One of the requirements that must be satisfied in order to grant indefinite leave to remain is that the applicant does not fall for refusal under the [general grounds for refusal](#). Therefore, in order to qualify for indefinite leave to remain an applicant must not have breached the conditions of the preceding grant of leave to remain. Where an applicant is found to be in breach of those conditions, the application would fall for refusal on general grounds.

Leave to remain under this route is subject to the following conditions:

- (i) no recourse to public funds,
- (ii) registration with the police, if this is required by [paragraph 326 of the immigration rules](#), and
- (iii) no Employment as a Doctor in Training

Caseworkers should note that applicants who are currently on an NHS Foundation Programme or are working as a Doctor in Training and were previously granted free access to the labour market (leave granted on Code 1 conditions only) are also not subject to such employment restrictions.

In order to qualify for this exemption the applicant should provide the following evidence in addition to the documents specified in the relevant Tier 1 guidance notes:

To prove that they are on the Foundation Programme- a letter from their Postgraduate Dean that satisfies the requirements of the [Immigration Directorate Instruction \(IDI\) on Postgraduate Doctors and Dentists \(see in particular page 17 of that IDI\)](#) confirming:

- That the applicant has a place on a Foundation Programme; and
- The Foundation Programme is recognised by the medical community; and
- The place on the Foundation Programme is full time.

To prove that they are working as a Doctor in Training- the applicant must provide a letter from the NHS Trust employing them, confirming that they are working in a post/programme that has been approved by the Postgraduate Medical Education and Training Board as a training programme or post.

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6.3 Supporting evidence required

The following documents are specified documents to be provided by the applicant to support an application for indefinite leave to remain as a Tier 1 (Investor) Migrant;

A portfolio of investments certified as correct by an authorised financial institution (one regulated by the Financial Services Authority) covering the period **from no longer than thirteen weeks after the applicant's permission to enter or remain in the UK in this category** to the last reporting date of the most recent quarter of the year before the date of this application. The invested sum must be not less than £750,000 of the applicant's capital in the UK by way of UK Government bonds, share capital or loan capital in active and trading UK registered companies other than those principally engaged in property investment.

The portfolio must:

- include the value of the investments
- show that any shortfall in investments was made up by the next reporting period
- show the dates on which the investments were made
- show the destinations of the investments (which should be UK companies)
- for loan funds only, the applicant must include audited accounts or un-audited accounts with an accountant's certificate for investments made as loan funds to companies, which must give full details of the investment
- show that the investments were made in the applicant's name or that of their civil partner, unmarried or same-sex partner, and not in the name of an offshore company or trust even if this is wholly owned by the applicant.
- show the name and contact details of the financial institution which has certified the portfolio as correct, with confirmation that this institution is regulated by the Financial Services Authority
- include the date that the portfolio was certified as correct
- state that the institution will confirm the content of the letter to us at our request.

In cases where investments have been made under the name of the applicant's unmarried or same sex partner, the applicant should provide evidence of living together with their partner for the two years immediately before the application.

This may include periods of up to six months apart where there are good reasons for the separation, for example work commitments or looking after a relative. However, the applicant should provide evidence of visits or letters during any periods of separation.

If an applicant relies on money held jointly with or solely by his/her husband, wife, civil partner, or unmarried or same-sex partner, he/she must provide specified evidence to establish the relationship.

If money is held jointly with a husband, wife, civil partner, or unmarried or same-sex partner, or solely by the husband, wife, civil partner, or unmarried or same-sex partner, then the husband, wife, civil partner, or unmarried or same-sex partner must give permission for the applicant to control this money in the United Kingdom, and a document confirming this must be sent with the application.

In these circumstances, applicants must provide evidence from each of the following sections 1-3 with their application:

1 i) The original certificate of marriage or civil partnership, to confirm the relationship.

This should include the name of the applicant and the husband, wife or civil partner;
or

ii) evidence to demonstrate a two-year relationship similar in nature to marriage or civil partnership.

A relationship that is similar in its nature to a marriage or civil partnership includes both unmarried and same-sex relationships. To prove they are living together within a committed relationship, applicants should provide at least three pieces of evidence of joint commitments from the following list (all must have been held for a minimum of two years and the evidence must cover the full two-year period):

- a bank statement or letter from a bank confirming a joint bank account (an account held in both names);
- official document such as a mortgage agreement showing a joint mortgage;
- official documents such as deeds of ownership or a mortgage agreement showing a joint investment, for example in property or business;
- joint rent (tenancy) agreement;
- any other official correspondence linking both partners to the same address, for example bills for council tax, electricity, gas, or water supply;
- life insurance policy naming the other partner as beneficiary;
- birth certificates of any children of the relationship, showing both partners as parents.

We may also agree to consider any other evidence that adequately demonstrates a couple's long-term commitment to one another.

2. A declaration from the husband, wife, civil partner, or unmarried or same-sex partner that he/she will permit all joint or personal money used to claim points for the application to be under the control of the applicant in the United Kingdom. This is known as a gift of beneficial ownership of the money while retaining the legal title.

This must be an original document and not a copy. The effect of the document is that the husband, wife, civil partner, or unmarried or same-sex partner of the applicant must not be able to access the money without the applicant's consent, and the applicant must be able to use the money freely without the consent of the husband, wife, civil partner, or unmarried or same-sex partner. The declaration must clearly show:

- the names of husband, wife, civil partner, or unmarried or same-sex partner and the applicant;
- the date of the declaration;
- the signatures of the husband, wife, civil partner, or unmarried or same-sex partner and applicant;
- the amount of money available;

and

- a statement that the husband, wife, civil partner, or unmarried or same-sex partner agrees that the applicant has sole control over the money.

3. A letter from a legal adviser confirming that the declaration is valid.

The confirmation from a legal adviser capable of providing the information (this is a legal adviser permitted to practise in the country where the declaration was made) must clearly show:

- the name of the legal adviser confirming that the declaration is valid;
- the registration or authority of the legal adviser to practise legally in the country in which the document was drawn up;
- the date of the confirmation of the declaration;
- the names of the applicant and husband, wife, civil partner, or unmarried or same-sex partner; and
- that the declaration is signed and valid according to the laws of the country in which it was made.

Evidence of the balance of funds if the investment is less than £1 million

If the total investments amount to less than £1 million, the applicant must provide evidence of the balance of funds up to a maximum of £250,000 in the form of one of the following documents:

- documents confirming the purchase of assets (for example, property) in the UK. They must show the assets purchased, the value of the assets and the date(s) of purchase; or
- statements of accounts in respect of funds maintained on deposit in the UK. These statements must be provided on the official stationery of the institution

that holds the funds. These statements must be in the name of the applicant (or applicant and/or husband, wife, civil partner, or unmarried and same sex partner) and confirm the dates and amount of money held ; or

- a letter from the financial institution that holds the cash on deposit confirming the amount(s) held and the date(s) on which they were deposited. The letter must be an original and not a copy, on the institution's official headed paper, and it must have been issued by an authorised official of that institution. The letter should also confirm that the institution will confirm the content of the letter at our request.

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6.4 Continuous Period of five years

Further information on how to calculate whether an applicant meets the continuous leave requirement can be found at [Annex A.](#)

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6.5 Granting settlement

If all the above requirements have been met, settlement may be granted.

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Annex A – Calculation of the five year period for settlement

In assessing whether or not an applicant has fulfilled the requirement to have spent five years in continuous residence in the UK, short absences abroad, for example for holidays (consistent with annual paid leave) or business trips (consistent with maintaining employment or self-employment in the United Kingdom), may be disregarded, provided the applicant has clearly continued to be based here.

Discretion in cases where continuous residence has been broken

In addition, time spent here may exceptionally be aggregated, and continuity not insisted upon, in cases where:

- there have been no absences abroad (apart from those described in the paragraph above) and authorised employment or business here has not been broken by any interruptions of more than three months or amounting to more than six months in total;

or

- there have been longer absences abroad, provided the absences were for compelling grounds either of a compassionate nature or for reasons related to the applicant's employment or business in the United Kingdom. None of the absences abroad should be of more than three months duration, and they must not amount to more than six months in total for the whole five year period..

NB: Decisions in such cases must be taken at HEO level or above.

Where continuous residence has been broken, periods may be aggregated or shortfalls disregarded only with the approval of an SEO or Grade 7.

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Refusal Formulae

Indefinite Leave to Remain - Tier 1 (General) Migrants

You have applied/...applied on your behalf] for indefinite leave to remain in the United Kingdom but your application has been refused.

Applicant has not met the continuous leave requirement

Paragraph 245E (b)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have spent a continuous period of 5 years Lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (General) Migrant, and the rest made up of leave in any combination of the following categories:

- (i) as a Tier 1 (General) Migrant,
- (ii) as a Highly Skilled Migrant,
- (iii) as a Work Permit Holder,
- (iv) as an Innovator,
- (v) as a Self-Employed Lawyer,
- (vi) as a Writer, Composer or Artist, or
- (vii) as a Tier 2 Migrant.

Applicant is not currently engaged in economic activity

Paragraph 245E (c)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you are economically active in the UK in employment or self-employment or both.

Applicant doesn't meet the English language/knowledge about life requirements.

Paragraph 245E (d)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have sufficient knowledge of the English language and sufficient

knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33D of these rules.

Indefinite Leave to Remain - Tier 1 (Entrepreneur) Migrants

You have applied/...applied on your behalf] for indefinite leave to remain in the United Kingdom but your application has been refused.

Applicant has not met the continuous leave requirement

Paragraph 245N (c)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have spent a continuous period of 5 years Lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (Entrepreneur) Migrant, and the rest made up of leave in any combination of the following categories:

- (i) as a Tier 1 (Entrepreneur) Migrant,
- (ii) as a Businessperson,
- (iii) as an Innovator.

Applicant is not currently engaged in business activity

Paragraph 245N (b)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have provided the specified documents to show that you were engaged in business activity at the time you made your application.

Applicant doesn't meet the English language/knowledge about life requirements.

Paragraph 245N (d)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33D of these rules.

Indefinite Leave to Remain - Tier 1 (Investor) Migrants

You have applied for indefinite leave to remain in the United Kingdom as an investor..."

Applicant has not met the continuous leave requirement

Paragraph 245U (b)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have spent a continuous period of 5 years Lawfully in the UK, of which the most recent period must have been spent with leave as a Tier 1 (Investor) Migrant, and the rest made up of leave in any combination of the following categories:

(i) as a Tier 1 (Investor) Migrant,

(ii) as an Investor.

Insufficient money/not own money

Paragraph 245U (c) with reference to Table 8 of Appendix A

In view of the fact that you (insert full reasons for refusal), although you have spent a continuous period of 5 years in the United Kingdom in this capacity the Secretary of State is not satisfied that you have had at least £1,000,000 of your own money under your control and disposable in the United Kingdom throughout this period, or have had a personal net worth of at least £2million and have money loaned to you by a financial institution regulated by the Financial Services Authority ."

Insufficient investment throughout 5 years

Paragraph 245U (c) with reference to Table 8 of Appendix A

In view of the fact that you (insert full reasons for refusal), although you have spent a continuous period of 5 years in the United Kingdom in this capacity the Secretary of State is not satisfied that you have throughout this period had not less that £750,000 of your own capital invested in the United Kingdom by way of United Kingdom Government bonds or share capital or loan capital in active and trading United Kingdom registered companies, other than those principally engaged in property investment and excluding deposits with a bank, building society or other enterprise whose normal course of business includes the acceptance of deposits.

Applicant has not provided specified documents to demonstrate that the investment referred to in Table 8 of Appendix A has been maintained throughout the period of 5 years with the exception of the first 3 months

Paragraph 245U (c) with reference to the Tier 1 (Investor) guidance notes

In view of the fact that you (insert full reasons for refusal), although you have spent a continuous period of 5 years in the United Kingdom in this capacity the Secretary of State is not satisfied that you have provided specified documents listed in the Tier 1 (Investor) guidance notes to demonstrate that throughout this period you had not less than £750,000 of your own capital invested in the United Kingdom by way of United Kingdom Government bonds or share capital or loan capital in active and trading United Kingdom registered companies, other than those principally engaged in property investment and excluding deposits with a bank, building society or other enterprise whose normal course of business includes the acceptance of deposits.

Applicant doesn't meet the English language/knowledge about life requirements.

Paragraph 245U (d)

In view of the fact that you (insert full reasons for refusal) the Secretary of State is not satisfied that you have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, with reference to paragraphs 33B to 33D of these rules.

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