



Home Office

**UK Border
Agency**

TIER 5
(TEMPORARY WORKER)
VERSION 12/2012

Tier 5 (Temporary Worker) of the Points-Based System – Policy Guidance

This guidance
is to be used
for applications
made on or after
13 December
2012

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Introduction

1. This document provides policy guidance on Tier 5 (Temporary Worker) 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. Separate guidance on Tier 5 (Youth Mobility Scheme) can be found at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier5/youthmobilityscheme/>.

2. If you are making an application from outside the United Kingdom for entry clearance, you should go to our website at <http://www.ukba.homeoffice.gov.uk/visas-immigration/general-info/applying/>, where you can find the forms and more information on how to fill them in.
3. If you are making an application from inside the United Kingdom for an extension of your existing leave or a change of employment in Tier 5 (Temporary Worker), you should use the online Tier 5 (Temporary Worker) application form or its paper equivalent available on our website: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier5/>.
4. Under Tier 5 (Temporary Worker), you must have both a sponsor and a valid Certificate of Sponsorship before applying.
5. Tier 5 (Temporary Worker) has five sub-categories:
 - Creative and sporting - for people coming to the United Kingdom to work or perform as sports people, entertainers or creative artists for up to 12 months.
 - Religious workers – for people coming to the United Kingdom to work as religious workers. Duties may include preaching, pastoral and non pastoral work.
 - Government authorised exchange – for people coming to the United Kingdom through approved schemes that aim to share knowledge, experience and best practice.
 - International agreement – for people coming to the United Kingdom under contract to provide a service that is covered under international law.
6. Applicants in all the Points-Based System categories will be subject to General Grounds for Refusal. This means that even if you qualify under the specific category of the Rules under which you are applying to come here, there may be other reasons (such as your 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/>.
7. We will return your passport(s) and other documents by recorded delivery. If you would like them to be returned by Special Delivery, you must provide a prepaid Special Delivery envelope which is large enough. If your application is successful, your biometric residence permit (BRP) will be sent to you separately by secure delivery.

General guidance for applicants of the Points-Based System (PBS)

Self-assessment

8. We have a points-based calculator that enables you to self-assess whether you are likely to score enough points for your application to succeed.
9. The points-based calculator is on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>.
10. The points-based calculator calculates the points we may award for the attributes (main requirements) section of the points assessment. You can also enter details of whether you have enough money to support yourself in the United Kingdom.
11. The points-based calculator will provide a summary of the information you enter, the points awarded for each section and the overall score.
12. Under Tier 5 (Temporary Worker) you must score:
 - 30 points for Certificate of Sponsorship (Appendix A of the Immigration Rules); and
 - 10 points for maintenance (funds available) (Appendix C of the Immigration Rules).
13. The results of the points-based calculator show the possible points you 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

14. You must ensure you provide all of the necessary supporting documents at the time you send us the application. We will only accept the documents specified in the Immigration Rules.
15. If you do not provide the specified documents, we will contact you to ask for

them **only** when you have submitted:

- A sequence of documents, and some of the documents in the sequence have been omitted (for example, if one bank statement from a series is missing);
- A document in the wrong format;
- A document that is a copy and not an original document.

We will contact you or your representative in writing, and the evidence must be received by the UK Border Agency processing centres within 7 working days. If you do not send in the correct documents we may refuse the application.

If you have submitted a specified document that is:

- in the wrong format, or
- a copy and not an original document,

we may approve your application exceptionally if we are satisfied that the specified documents are genuine and that you meet all the other requirements. We reserve the right to request the original documents in the correct format and to refuse applications if the specified documents are not provided.

We will not ask for further information where none of the information has been submitted (for example an English language certificate is missing); or where we do not anticipate that a correction of minor errors or omissions will lead to an approval because the application will fail for other reasons.

16. Any documentary evidence that you provide must be the original (not a copy) unless we say otherwise.
17. 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.

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

Verification and other checks

19. 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 you provide is a true reflection of your background.
20. We will ask for a variety of verifiable documents to enable us to consider your application.
21. We may want to check the supporting documents you send with your application. Therefore, you 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.
22. 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 your application or the documents sent with your application but the doubts are not serious enough for us to make a verification check.

Verification checks

23. 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.
24. The purpose of these checks is to ensure that the document provided is genuine and accurately reflects statements made in

your application. If the document is being used as evidence to score points, we also want to ensure that it entitles you to score those points.

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

Reasonable doubt

26. 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

27. 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 your application as normal.
- **Document confirmed as false.** If we can conclude that the document is false, we will refuse your application, whether or not the document is essential to the application. If a document is confirmed as false, we will normally refuse your application for more than one reason. For example, if you send us a bank statement to show that you have enough funds available, and we have evidence that the statement is false, we will refuse your application because you do not meet the funds requirement and because you have 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 made by you.
- **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 you have sent other specified documents as

evidence for scoring the relevant points, we will consider these as normal. If you have not sent any other documents, we will award no points in that area.

Refusing applications without making verification checks

28. We may refuse your application without making verification checks 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.

Other checks

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

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

Extra checks

31. 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

32. 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 your application, whether or not the document is essential to the application. If a document is confirmed as false we will normally refuse your application for more than one reason. For example, if you send us a bank statement to show that you have enough funds available, and we have evidence that the statement is false, we will refuse the application because you do not meet the funds requirement and because you have 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 made by you.

- **Check inconclusive.** If we cannot verify that the document is either genuine or false, we will consider your 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

33. 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

34. We will use a standard form to record the results of our enquiries, to ensure that we record any feedback consistently.
35. 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.
36. Our compliance team may visit your employer before we make a decision on your application.

Administrative review (entry clearance applications only)

37. If we refuse your application for entry clearance and you think that a mistake has been made, you 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 if you are already in the United Kingdom, you cannot apply for an administrative review.

Appeal rights (in-country applications)

38. If we refuse your application for leave to remain and you think that a mistake has been made, you may be able to appeal against our decision. Details on how and if you can appeal against our decision will be included with your reasons for refusal letter.

Date of application

39. 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; or

- where the application form is submitted in person, the date which it is accepted by our public enquiry office; or
- where the application is made via the online application process, on the date on which the online application is submitted.

For applications made outside the UK:

- The date of the application is the date that the fee associated with the application is paid. This means the date shown on your payment receipt, which depends on how you paid for your visa application, for example, at a British Diplomatic Post, visa application centre or online.

40. Applications for further leave to remain under the Points-Based System will fall for refusal if you have overstayed for more than 28 days on the date of application, unless there were exceptional circumstances which prevented you from applying within the 28 day period. The 28 day period of overstaying is calculated from the latest of:

- the end of the last period of leave to enter or remain granted,
- the end of any extension of leave under sections 3C or 3D of the Immigration Act 1971,

or

- the point that a migrant is deemed to have received a written notice of invalidity, in accordance with paragraph 34C or 34CA of the Immigration Rules, in relation to an in-time application for further leave to remain.

If there are exceptional circumstances which prevented you from applying in time you must submit evidence of the exceptional circumstances with your application. The threshold for what constitutes 'exceptional circumstances' is high and will depend on the individual

circumstances of the case, but for example may include delays resulting from unexpected or unforeseeable circumstances such as the following:

- serious illness which meant that you or your representative were unable to submit the application in time (where supported by appropriate medical documentation).
- travel or postal delays which meant that you or your representative were unable to submit the application in time.
- inability to provide necessary documents. This would only apply to exceptional or unavoidable circumstances beyond your control, such as UK Border Agency being at fault in the loss of, or delay in returning, travel documents, or delay in obtaining replacement documents following loss as a result of theft, fire or flood (where supported by evidence of the date of loss and the date replacement documents were sought).

Sponsorship

The role of the sponsor

41. To apply under Tier 5 (Temporary Worker), you must have a sponsor. A sponsor is an United Kingdom based organisation that you want to work for (for Government Authorised Exchange the sponsor must be an overarching body) in the United Kingdom.
42. In order to sponsor you, an employer will need to have registered as a licensed sponsor. The sponsor will need to meet the requirements for the particular sub-category within Tier 5 (Temporary Worker) and accept certain responsibilities to help with immigration control.
43. Find more information for sponsors on our website at: <http://www.ukba.homeoffice.gov.uk/employers/>.
44. Your sponsor will need to assign a Certificate of Sponsorship before you can apply for leave under Tier 5 (Temporary

Worker). The Certificate of Sponsorship will act as an assurance that you are able to undertake a particular job and intend to do so.

The Certificate of Sponsorship

45. 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 your personal details.
46. We will not provide you with your Certificate of Sponsorship reference number as this is the responsibility of your sponsor.
47. The sponsor may also need to provide you with some of the information declared when the Certificate of Sponsorship was assigned. You may need this information to accurately complete the points-based calculator and the application form.

What is a live Certificate of Sponsorship?

48. Within the Sponsor Management System (the system that sponsors use to assign a Certificate of Sponsorship) you 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 you, but you have not yet used that Certificate of Sponsorship's reference number to make an application for leave or entry clearance.
49. If you have given your personal details to one prospective sponsor, and that sponsor assigns a Certificate of Sponsorship reference number to you, no other prospective sponsor will be able to assign a Certificate of Sponsorship to you for the same period of leave. It is very important that where possible you only give your personal details (for example passport number) to a prospective sponsor with whom you intend to work.

50. If you do not want to take up the post because you wish to take up an offer of a job from a different sponsor, you must contact the sponsor to withdraw the Certificate of Sponsorship. You 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, you 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, you should contact the Sponsor Licensing Unit. The Sponsor Licensing Unit will cancel the Certificate of Sponsorship if necessary after discussions with the sponsor.

51. You can 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

You must provide the following information when contacting the Sponsor Licensing Unit:

- full name;
- nationality;
- the name of the sponsor you no longer wish to work for;
- the Certificate of Sponsorship reference number you wish to be cancelled;
- the name of the sponsor you wish to work for;
- the reason why you wish the Certificate of Sponsorship to be cancelled;
- the date you first contacted the sponsor to request the Certificate of Sponsorship be cancelled;

- the date you contacted the sponsor again to remind it to cancel the Certificate of Sponsorship.

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

53. If you do not want to come to the United Kingdom, you should tell your sponsor that you will not travel, and ask the sponsor to withdraw the Certificate of Sponsorship. You 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

54. 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 you as where a Certificate of Sponsorship becomes invalid.

What is a valid Certificate of Sponsorship?

55. A valid Certificate of Sponsorship is one that:

- has the same details on it as in your passport; and
- was assigned no more than three months before the date of application; and
- has not been withdrawn/cancelled by either the sponsor, or us; and
- contains the details required by the relevant Immigration Rules.

56. The Certificate of Sponsorship will expire if it is not used for a leave application within three months of it being assigned. If you submit an application using a Certificate of Sponsorship that has expired, your application will be refused. You must get a new Certificate of Sponsorship from your sponsor in such circumstances.

57. The fact that a Certificate of Sponsorship has been issued does not guarantee that you will succeed in obtaining entry clearance, leave to enter, or leave to remain. You must meet all conditions for category and tier.

Sponsorship duties

58. The sponsor has a number of record keeping and reporting duties for you while you are being sponsored by them.

59. Record keeping duties include keeping copies of your passport or United Kingdom immigration status document, and contact details.

60. Reporting duties include:

- if you do not turn up for your first day of work;
- if you are absent from work for more than 10 working days, without the sponsor's reasonably granted permission;
- if your period of engagement (including where you resign or are dismissed) or if any registration you need to work in the United Kingdom (such as with a governing body) is ended;
- if the sponsor stops sponsoring you for any other reason (for example, if you move into an immigration route that does not require a sponsor);
- if there are any significant changes in your circumstances, for example, a change of job or salary (but not job title or annual pay rise);
- if the sponsor has information which suggests that you may be breaching the conditions of your leave;

- if the sponsor has information which suggests that you may be engaging in terrorism or other criminal activity, it must give the police any information it may have.

61. You must give your sponsor all the information needed for your sponsor to be able to fulfil the above duties.

62. You may wish to report any instances where you believe that the sponsor is not complying with its duties, or has provided false information to us about you.

63. You, 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 you 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

64. 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

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

below.

If a sponsor's licence is suspended

66. 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.
67. You can continue to submit applications for leave during the time the sponsor's licence is suspended if your leave is due to expire.
68. If you submit 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.
69. If you have already been given entry clearance on the basis of a Certificate of Sponsorship assigned by that sponsor but you have not yet travelled to the United Kingdom, you will be allowed to enter and start working for the sponsor. However, we advise you to check the status of your sponsor's licence before you travel and we recommend that you do not travel to the United Kingdom if your sponsor's licence has been suspended.
70. If you have already travelled to the United Kingdom, you will be allowed to enter the United Kingdom and start work for the sponsor.
71. If the sponsor's licence is withdrawn however, the Certificate of Sponsorship will be cancelled and your application will be refused. If the application is made while you are in the United Kingdom, and it is refused, we may curtail your leave:
- to 60 days where you were not complicit in the actions that resulted in the sponsor having its licence withdrawn. If you have less than 60 days of your leave remaining, we will not curtail this leave. You may wish to make a further application for leave during this time; or
 - with immediate effect where we consider you to have been complicit.

If we are thinking about taking action against a sponsor

72. 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 you if that sponsor has assigned a Certificate of Sponsorship. We will hold the application until a decision on the sponsor's licence is made.
73. If we can, we will try to contact you if you were granted entry clearance relying on a Certificate of Sponsorship from a sponsor assigned prior to its licence being suspended before you travel to the United Kingdom. We will advise you not to travel to the United Kingdom until we have made a decision on the sponsor's licence.
74. If you have already travelled to the United Kingdom, you will be allowed to enter the United Kingdom and start work for the sponsor.
75. You can submit applications for leave during this time if your leave is due to expire. If the sponsor's licence is withdrawn, however, the Certificate of Sponsorship will be cancelled and your application will be refused. If your application is made while in the United Kingdom, and it is refused, we may curtail your leave:
- to 60 days where you were not complicit in the actions that resulted in the sponsor having its licence withdrawn. If you have less than 60 days of your leave remaining, we will not curtail this leave. You may wish to make a further application for leave during this time; or
 - with immediate effect where we consider you to have been complicit.

If a sponsor's licence is withdrawn

76. If a sponsor has its licence withdrawn, any Certificate of Sponsorship it has issued will become invalid. This affects you if you have yet to apply for entry clearance, leave

to enter, or leave to remain, and if you are already working for the sponsor.

77. We will refuse any application for entry clearance, leave to enter, or leave to remain made by you using an invalid Certificate of Sponsorship.
78. Where you have already been granted entry clearance but have not travelled to the United Kingdom, the entry clearance will be revoked. Where you have already travelled to the United Kingdom, you will not be allowed to enter the United Kingdom.
79. Where you are 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 you were not complicit in the actions that resulted in the sponsor having its licence withdrawn. If you have less than 60 days of your leave remaining, we will not curtail this leave. You may wish to make a further application for leave during this time; or
 - with immediate effect where we consider you to have been complicit.

Sponsor takeover and/or transfer of employment

80. If your 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.
81. If it does not, we are likely to curtail your leave to 60 days, as you will not be working for a licensed sponsor. If you have less than 60 days of your leave remaining, we will not curtail this leave. You may wish to make a further application for leave during this time.
82. If the new employer does not get a licence, any Certificate of Sponsorship issued by the previous employer will be invalid.
83. 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>.

If a sponsor does not renew its licence

84. If the sponsor does not renew its licence, any Certificates of Sponsorship it has issued will become invalid. We may curtail your leave to 60 days. If you have less than 60 days of your leave remaining, we will not curtail this leave. You may wish to make a further application for leave during this time. We may refuse entry to the United Kingdom to you if you have not yet travelled.

Termination of employment

85. If your employment ends before your period of leave, we may curtail your leave to 60 days. If you have less than 60 days of your leave remaining, we will not curtail this leave. You may wish to make a further application for leave during this time.
86. 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>.

Compliance officer visits

87. Sponsors may get an on-site visit from our compliance 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 you and other migrant workers the sponsor is employing.

Tier 5 (Temporary Worker) overview of terms and conditions

88. The following tables explain some of the key features of Tier 5 (Temporary Worker). Full details of the requirements are in paragraphs 245ZM to 245ZR of the Immigration Rules.

Periods of grant

<p>For people in the creative and sporting and charity workers categories.</p>	<p>For a maximum period of 12 months, or the time given on the Certificate of Sponsorship plus 14 days after the end date given on the Certificate of Sponsorship and up to 14 days before the start date, whichever is the shorter.</p> <p>Creative workers can also apply for an extension for a maximum of 12 months at a time up to a total of 24 months if they remain with the same sponsor.</p>
<p>For people in the religious workers and international agreement categories.</p>	<p>For a maximum period of 24 months, or the time given on the Certificate of Sponsorship plus 14 days after the end date given on the Certificate of Sponsorship and up to 14 days before the start date, whichever is the shorter.</p> <p>The exceptions to this are for those applying as:</p> <ul style="list-style-type: none"> • private servants in diplomatic households and who were granted entry clearance in that capacity under the Rules in place before 6 April 2012 can apply for an extension for a maximum of 12 months at a time, up to a total of six years; or • private servants in diplomatic households who were granted entry clearance in that capacity under the Rules in place on or after 6 April 2012 can also apply for an extension for a maximum of 12 months at a time up to a maximum of 5 years or up to the length of their employer's posting, whichever is shorter; or • employees of overseas governments only, who can apply for an extension for a maximum of 12 months at a time, up to a total of six years. • Those providing a service under contract as set out in the General Agreement on Trade In Services (GATS) and other similar trade agreements such as the European Union - Chile free trade agreement, can only apply for a maximum stay of 6 months in any 12 month period.

<p>For people in the government authorised exchange category</p>	<p>For a maximum period of 24 months, or the time given on the Certificate of Sponsorship plus 14 days after the end date given on the Certificate of Sponsorship and up to 14 days before the start date, whichever is the shorter for those who:</p> <ul style="list-style-type: none"> • were granted entry clearance in that capacity under the Rules in place before 6 April 2012; or • were granted entry clearance in a research programme or training programme under the Rules in place on or after 6 April 2012. <p>Or</p> <p>For a maximum period of 12 months, or the time given in the Certificate of Sponsorship plus 14 days after the end date given on the Certificate of Sponsorship and up to 14 days before the start date, whichever is the shorter for those who were granted entry clearance in a work experience programme under the Rules in place on or after 6 April 2012.</p> <p>Please note, a list of approved Government Authorised Exchange schemes (programmes) can be found on our website at http://www.ukba.homeoffice.gov.uk/sitecontent/documents/workingintheuk/gae-list.pdf</p>
<p>Leave to Remain (Extension) where previous grant of leave was a Tier 5 (Temporary Worker) migrant irrespective of category and the migrant had entry clearance.</p>	<p>Up to the maximum time allowed in the category, or the time given on the Certificate of Sponsorship plus 14 days, whichever is shorter.</p>

Switching

Switching into the Tier 5 (Temporary Worker) category.

Sports or entertainer visitors are allowed to switch into the Tier 5 (Temporary Worker) Creative and Sporting sub-category, if they have a valid Certificate of Sponsorship that was assigned to them before they came to the United Kingdom.

Qualifying Work Permit Holders are allowed to switch into the Tier 5 (Temporary Worker) International Agreement sub-category provided their Certificate of Sponsorship shows that they are being sponsored in the Government Authorised Exchange subcategory and they will be continuing in employment with the same organisation.

Overseas Government Employees (granted under paragraphs 160-162 and 164-165 of the Immigration Rules) are allowed to switch into the Tier 5 (Temporary Worker) – International Agreements sub-category of the Points-Based System.

Qualifying Work Permit Holders are allowed to switch into the Tier 5 (Temporary Worker) Government Authorised Exchange, sub-category provided they were previously issued with a work permit for the purpose of employment as a sponsored researcher, and have been granted a Certificate of Sponsorship to continue this employment.

Students (paragraphs 57-62 of the Immigration Rules), Students Re-Sitting an Examination (69A-69F), Student Nurses (63-67), Student Union Sabbatical Officers (87A-87F), People Writing up a Thesis, Postgraduate Doctors and Dentists or Tier 4 (General) Migrants (245ZT-245ZY) can apply to switch into the Tier 5 (Temporary Worker) Government Authorised Exchange sub-category, provided they:

- have lawfully obtained a UK bachelors, masters degree, PGCE or PGDE; and
- are undertaking a period of postgraduate professional training or work experience which is directly relevant to their qualification described above; and
- intend to pursue a career overseas at the end of the period of work experience or training.

All other switching into Tier 5 (Temporary Worker), or between subcategories of Tier 5 (Temporary Worker) is not permitted

Conditions of leave

Conditions you must meet.	<p>If you have leave in any Tier 5 (Temporary Worker) category, you will be subject to the following conditions:</p> <ul style="list-style-type: none">• 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:• working for the sponsor in the employment stated on the Certificate of Sponsorship; or,• if you are being sponsored in the government authorised exchange sub-category of Tier 5 (Temporary Worker), work, volunteering or job shadowing authorised by your sponsor that the Certificate of Sponsorship records that you are being sponsored to do; or• if you are being sponsored in the International Agreement subcategory as a private servant in a diplomatic household who was granted entry clearance under the Rules in place on or after 6 April 2012, working for the employer named on the Certificate of Sponsorship;• Supplementary employment except for private servants in diplomatic households who were granted entry clearance under the Rules in place on or after 6 April 2012; and• Where you are being sponsored in the creative and sporting subcategory of Tier 5 (Temporary Workers), employment as a sportsperson for your national team while it is in the UK and temporary engagement as a sports broadcaster.
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89. If you want to travel to the United Kingdom under Tier 5 (Temporary Worker) of the Points-Based System, you will need prior entry clearance. The exception to this is if you are a non-visa national seeking entry to the United Kingdom for a period of less than three months in the Tier 5 (Temporary Worker) Creative and Sporting sub-category. You will need a valid Certificate of Sponsorship reference number before you apply for either entry clearance or further leave to remain in the United Kingdom, or seek leave to enter if you are a non-visa national coming to the United Kingdom for less than 3 months in the Creative and Sporting sub-category.

90. You will be able to enter the United Kingdom up to 14 days before your start date, the date given by your sponsor on the Certificate of Sponsorship.

91. Where you are under 18 years of age, the application must be supported by your parents or legal guardian, or by just one parent if that parent has sole legal responsibility for you.

92. Where you are under 18 years of age, your parents or legal guardian, or just one parent if that parent has sole responsibility for you, must confirm that they consent to the arrangements for your travel to, and reception and care in, the UK.

Tier 5 (Temporary Worker) points scoring

93. In order to obtain entry clearance or leave to enter or remain within Tier 5 (Temporary Worker) sub categories, you must score enough points and send supporting evidence where appropriate.

Tier 5 (Temporary Worker) point scoring requirements

94. Under Tier 5 (Temporary Worker), you must score:

- 30 points for possessing a valid Certificate of Sponsorship (Appendix A of the Immigration Rules); and 10 points for Maintenance (Funds) (Appendix C of the Immigration Rules).

95. Rules have to be met.

96. The points available are:

- | | | |
|----------|----------------------------|-----------|
| A | Certificate of Sponsorship | 30 points |
| B | Maintenance requirement | 10 points |

97. In order to be awarded points for section **A** of the above table, you must have a valid Certificate of Sponsorship issued by your sponsor.

98. Further details of each sub-category of the Tier 5 (Temporary Worker) category are given below. For further information on the conditions under which sponsors should issue certificates of sponsorship, please see our website at: <http://www.ukba.homeoffice.gov.uk/employers/>.

Creative and sporting

99. This category is for applicants in the creative and sporting sector who are entering the United Kingdom for short term contracts/engagements in the United Kingdom.

100. For sportspeople, you must be internationally established at the highest level in your sport and/or your employment will make a significant contribution to the development and operation of that particular sport in this country; coaches must also be suitably qualified to fulfil the role in question.

101. In order for a Certificate of Sponsorship to be assigned for a sportsperson under Tier 5 (Temporary Worker - Creative and Sporting), the sponsor will need to have an endorsement for you from the appropriate governing body for your sport. The endorsement will confirm that:

- you are internationally established at the highest level; and/or

- your employment will make a significant contribution to the development of your sport at the highest level in the United Kingdom; and
 - the post could not be filled by a suitable settled worker.
102. The endorsement will be obtained from the governing body by your sponsor.
103. Find a list of all approved governing bodies on our website at: <http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/sportsgoverningbodies/>.
104. For a creative worker and their entourage operating in dance, theatre, or film and television, the sponsor must commit to following the specified code of practice specified in the Immigration Rules, which includes taking into account the needs of the resident labour market in that area. Where your job is not covered by a specific code of practice, your sponsor must show that the post could not have been filled by a settled worker. Examples to demonstrate this might be recruitment activity undertaken, written support from an appropriate industry representative body or sector labour market information.
105. In assigning a Certificate of Sponsorship, the sponsor will have guaranteed that you:
- are seeking entry to the United Kingdom to work or perform in the relevant sector;
 - are not intending to base yourself in business in the United Kingdom;
 - pose no threat to the resident labour force; and
 - will comply with the conditions of your permission to stay and leave the United Kingdom when it expires.
106. This category is not for people who have previously entered the UK under the permit free concessions for entertainers, including permit free festivals, and sportspeople. These concessions have been brought within the Immigration Rules under the entertainer and sportsperson visitor routes. Professional sportspeople or amateurs wishing to play for professional clubs would need to obtain permission to work under the Points-Based System. For more information on the visitor routes and amateur status see our visitor guidance: <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDs/idischapter2/>
107. If you are entering the United Kingdom under the creative and sporting sub-category, you must obtain entry clearance prior to travelling to the United Kingdom. The exception to this is non-visa nationals seeking entry to the United Kingdom for a period of three months or less.
108. If you qualify for this exception, you will require a Certificate of Sponsorship, but will not be required to obtain entry clearance. Separate arrangements, consistent with the principles of sponsorship, will enable appropriate checks to be made at the port of entry.
109. You will need to tell the Immigration Officer your Certificate of Sponsorship number when you arrive in the United Kingdom. The Immigration Officer will also ask you to provide your evidence of meeting the maintenance requirements. Please refer to the maintenance section for the evidence we expect applicants to provide. It may take the Immigration Officer some time to process the application. If you do not bring all the necessary evidence, it may result in your application being refused and you will not be allowed to enter the United Kingdom.
110. You may wish to bring contact details for your sponsor with you in case we need to speak to them, and should ask the sponsor to confirm the details that they have entered on the Certificate of Sponsorship.
111. Where you are granted leave to enter for up to three months by an Immigration Officer on arrival in the UK, your leave will automatically lapse once you travel outside the Common Travel Area (the Common Travel Area is UK, Republic of Ireland, the Isle of Man and the Channel

Islands). This means that you will not automatically be able to re-enter the UK on the basis of your original grant of leave. However, you may need to come back to the UK to fulfil your engagements for your sponsor here. In this instance, you must tell the Immigration Officer your original Certificate of Sponsorship number on arrival. The Immigration Officer will ask you to provide your evidence of meeting the maintenance requirements again. The Immigration Officer will carry out checks to ensure that the sponsor has not withdrawn their sponsorship of you since your original entry, and may wish to speak to the sponsor again to confirm the details on the Certificate of Sponsorship. Provided you meet all the criteria, the Immigration Officer will be able to grant leave to allow you to complete the engagements for your sponsor within the period of your original grant of leave.

112. If you wish to come to the United Kingdom for three months or longer you will need to get entry clearance.

113. If you are a creative worker or sportsperson, you may apply for entry clearance from a country that is not your normal place of residence if you are in that country for a similar role to the one you want to do in the United Kingdom.

Group Certificates of Sponsorship

114. You will be able to bring your entourage using a group Certificate of Sponsorship. An entourage can include people whose work is directly related to the employment of an entertainer, cultural artist, sportsperson or a dramatic production. The person should have proven technical or other specialist skills.

Multiple engagements or performances

115. Due to the nature of the creative sector, at times you may need to perform a number of engagements at a number of venues. If you have a single sponsor, for example, an agent, and there is no more than a maximum of 14 calendar

days between each engagement, that sponsor can assign a single Certificate of Sponsorship to cover the whole period.

116. If you are sponsored by individual venues, producers or promoters, then it is still possible for each sponsor to assign a Certificate of Sponsorship to cover its own show. The periods of work stated on the Certificates of Sponsorship must not overlap (you may need to co-ordinate the periods of work with your sponsors). If there is no more than a maximum of 14 calendar days between each engagement, then entry clearance will be granted to cover the whole period.

117. If there is a gap of more than 14 days between engagements, you will have to leave the United Kingdom and apply for entry clearance again as a new application.

Charity workers

118. This category is for those wanting to undertake unpaid voluntary work in line with the aims of their sponsor in the United Kingdom.

119. If you are coming to work temporarily in the United Kingdom as a charity worker, you should only be doing voluntary activities and not paid work. You should intend to carry out fieldwork directly related to the purpose of the sponsoring organisation.

120. In assigning a Certificate of Sponsorship, the sponsor will have guaranteed that you:

- intend to undertake voluntary fieldwork directly related to the purpose of the charity;
- will not be paid or receive other payment for your work (except reasonable expenses outlined in section 44 of the National Minimum Wage Act), please see: <http://www.statutelaw.gov.uk/content.aspx?LegType=All+Legislation&title=National+Minimum+wage+Act&Year=1998&searchEnacted=0&extentMatchOnly=0&confersPower=0&blanketAmen>

[dment=0&sortAlpha=0&TYPE=QS&PageNumber=1&NavFrom=0&parentActiveTextDocId=1571667&ActiveTextDocId=1571728&filesize=12566](#)

- will not take up a permanent position; and
- will comply with the conditions of your permission to stay and leave the United Kingdom when it expires.

Religious workers

121. This category is for those coming to work temporarily in the United Kingdom as a religious worker. Duties may include preaching, pastoral work and non pastoral work.

122. For examples of the duties we expect those coming in under the Tier 5 (Temporary Worker) - religious worker sub-category to undertake, please see the 'Guidance for Sponsor Application 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/>.

123. In assigning a Certificate of Sponsorship, the sponsor will have guaranteed that:

- you are qualified to do the job in question;
- you will only work at the specified location(s), except where working under the supplementary employment provisions;
- they will accept the responsibilities of sponsorship for you;
- where applicable, they will support you through funds and/or accommodation that are sufficient for you to maintain yourself throughout the duration of the Certificate of Sponsorship. If you are unable to support yourself, you could face financial hardship because you will not have access to most state benefits;

- you will not be displacing or denying an employment opportunity to a suitably qualified member of the resident labour force; and
- you will comply with the conditions of your permission to stay and will leave the United Kingdom when it expires.

124. Your Certificate of Sponsorship must outline your duties, details of remuneration, and an explanation of how the role passes the resident labour market test.

Government authorised exchange

125. This category is for those coming to the United Kingdom through approved schemes that aim to share knowledge, experience and best practice through work placements, whilst experiencing the wider social and cultural setting of the United Kingdom. This category cannot be used to fill job vacancies or provide a way to bring unskilled labour to the United Kingdom.

There are three types of scheme approved under the government authorised exchange sub-category:

- Work experience programme – this includes volunteering, job-shadowing, internships and approved work experience programmes;
- Research programme – this includes only those working on specific scientific, academic, medical or government research projects at UK higher education institutions or other research institution operating under the authority and/or financial sponsorship of a relevant government department;
- Training programme – this includes only those receiving formal, practical training in the fields of science and/or medicine, those receiving training by HM armed forces or UK emergency services, or those:

- who lawfully obtained a UK recognised bachelor or postgraduate degree (not a qualification of equivalent level which is not a degree) during their last grant of leave; and
- being sponsored to undertake a period of postgraduate professional training or work experience which is required to obtain a professional qualification or professional registration in the same professional field as the qualification described above; and
- who will not be filling a permanent vacancy, such that the employer you are directed to work for by the sponsor does not intend to employ you in the UK after the end of the training or work experience for which you are being sponsored.

126. Individual employers and organisations will not be allowed to sponsor anyone under this category, even if they are licensed as sponsors under other tiers or categories of Tier 5, to prevent potential abuse of this category and the formation of small individual schemes. The only exceptions to this are:

- Sponsored researchers – a scheme has been approved by the Department for Innovation, Universities and Skills, so higher education institutions will be able to recruit sponsored researchers under this category of the Points-Based System.
- where the employer is a Government Department or an Executive Agency of a Government Department.

127. There will be an overarching body to manage the exchange scheme. This overarching body will be the sponsor. The scheme and the overarching body must have the support of a United Kingdom government department. The overarching body will assign certificates of sponsorship to those who meet the requirements of the scheme.

128. Any work undertaken must be equivalent to level 3 or above on the National Qualification Framework. The only exception to this is where the migrant is coming to the UK through a scheme set up as part of the EU Lifelong Learning Programme, where the migrant may undertake vocational education and training at a lower skill level.

129. When the overarching body assigns a Certificate of Sponsorship, they will have guaranteed that you:

- are seeking entry to the United Kingdom to work or train temporarily here through an approved exchange scheme;
- do not intend to establish a business in the United Kingdom; and
- meet the requirements of the individual exchange scheme.

International agreement

130. This category is for those who are coming to the United Kingdom under contract to provide a service covered under international law, including:

- private servants in diplomatic households;
- employees of overseas governments and international organisations;
- the General Agreement on Trade in Services (GATS); and
- similar agreements between the United Kingdom or European Union and another country or other countries.

This category does not include the intra corporate transfer commitment of GATS. Those coming to the United Kingdom under these arrangements should come under Tier 2 (Intra Company Transfer) of the Points-Based System

131. In assigning a Certificate of Sponsorship to private servants in diplomatic households, the sponsor will have guaranteed that you:

- are aged 18 years old or over;

- will be employed as a private servant by, and in the household of:
 - a) a named member of staff of a diplomatic or consular mission who has diplomatic privileges and immunity as defined by the Vienna Convention on Diplomatic Relations; or
 - b) a named official employed by an international organisation with certain privileges and immunities under United Kingdom or international law;
- intend to work full-time in domestic employment for that named employer;
- will not take up any other form of job for the sponsor other than as a private servant in the specified household; and
- will leave the United Kingdom when your permission to stay has expired.

Please note that you must provide written evidence of the terms and conditions of your employment in the United Kingdom in the form set out in the table below. This must be signed by you and your employer, who must be a diplomat.

Please also note: domestic workers in private households will remain outside the Points-Based System, and such applicants should continue to apply as they do now.

132. In assigning a Certificate of Sponsorship to employees of overseas governments and international organisations, the sponsor will have guaranteed that you will:

- be under a contract of employment with the overseas government or international organisation;
- not take up any job for the sponsor other than that for which the Certificate of Sponsorship was assigned; and
- not try to avoid immigration controls by changing to a different category of worker within the international agreements category after entering the United Kingdom.

133. In assigning a Certificate of Sponsorship for those coming to the United Kingdom under GATS or other similar trade agreement, the sponsor will have guaranteed that you:

- are a contractual service supplier who is employed by a company based outside the European Union that has a contract to supply services to someone in the United Kingdom as set out in the GATS or a similar trade agreement;
- have been an employee of the company for at least 12 months;
- have a degree or equivalent level qualification;
- have specific professional qualifications to provide services in the United Kingdom where required by relevant legislation, regulations or sectoral requirements; and
- have three years professional experience in the sector in which you are supplying services.

Maintenance (Funds)

Maintenance requirement

134. One of the requirements of the Tier 5 (Temporary Worker) category is that those coming to the United Kingdom must be able to support themselves for the entire duration of their stay in the United

Kingdom without use of public funds (benefits provided by the state). Anyone who is unable to support themselves could face financial hardship because they will not have access to most state benefits

135. In order to qualify for entry clearance, leave to enter or leave to remain under the Tier 5 (Temporary Worker) category you must meet the maintenance requirement. You can do this by:

- demonstrating that you have at least £900 of personal savings which must have been held for at least a consecutive 90 day period ending no earlier than 31 days before the date of application; or
- your sponsor indicating on the Certificate of Sponsorship that it has certified your maintenance. Sponsors that certify that you meet the maintenance test under Tier 5 should note that it is their duty to make you aware that you should not claim state benefits during your period of leave as a Tier 5 (Temporary Worker). Please note, only A-rated sponsors, including Premium and SME+ sponsors, will be able to certify your maintenance. **The sponsor will not be able to certify maintenance for your dependants.**

136. You may want to check the potential costs of living in the United Kingdom. If you do not expect to get any income from your work in the United Kingdom after the first month, you may want to check that you have enough money to support yourself and any dependants.

137. Any dependants wishing to join you must also provide evidence that they have access to sufficient funds. There is separate dependant's guidance which can be found on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/>.

Qualifying to be awarded points

138. You can score points for maintenance by either:

- showing that you have had access to £900 of available funds over the 90 day period ending no earlier than 31 days before the date of application; or
- your sponsor certifying the maintenance. You should confirm with your sponsor that it has indicated, that your maintenance has been certified on the Certificate of Sponsorship.

139. If you are unable to obtain 10 points in the maintenance requirements section, you will not be successful in your application, even if you score the required number of points for your given category and meet all other requirements of the Immigration Rules.

Supporting evidence

Documents we require as evidence of your sponsor certifying your maintenance

140. If your sponsor certifies maintenance, this must be confirmed on your Certificate of Sponsorship.
141. Only A-rated sponsors, including Premium and SME+ sponsors, can certify your maintenance.

Documents we require as evidence of personal savings

142. To be awarded 10 points because you have personal savings of £900 that have been held for a consecutive 90 day period ending no earlier than 31 days before the date of application, you must provide one of the types of specified evidence listed in the Immigration Rules.
143. The evidence used to support personal savings for at least a consecutive 90 day period must be original, and issued by an authorised official of that organisation.
144. Evidence must be in the form of cash funds held in an account (this includes savings accounts and current accounts even when notice must be given). Other accounts or financial instruments such

as shares, bonds, overdraft, credit cards, pension funds etc, are not acceptable, regardless of notice period.

145. Where you are providing evidence of maintenance from a single account, we will always assess the funds available to you from the closing balance given on the document provided.
146. Where two or more pieces of evidence from a single account are submitted (for example two consecutive bank statements) we will assess the funds available to you from the closing balance of the most recent document.
147. Where evidence from two or more accounts is submitted, we will assess the funds available to you using:

- the most recent closing balance of one account, plus
- any additional money available to you on the date of that closing balance, for which you have provided the required evidence.

We will always use the closing balance date from the account that most favours you.

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

i) Personal bank or building society statements covering a consecutive 90 day period

The most recent statement must be dated no earlier than 31 days before the date of the application.

The personal bank or building society statements should clearly show:

- your name;
- your account number;
- the date of the statement;
- the financial institution's name and logo;

- any transactions during the 90 day per account throughout the period. (The balance must always be at least £900 covering the three month 90 day period ending no earlier than 31 days before the date of application).

All statements must be on the bank's stationery, unless you are submitting electronic statements.

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

If you wish to submit electronic bank statements from an online account these must contain all of the details listed above. In addition, you will need to provide either:

- a supporting letter from your bank, on company headed paper, confirming the authenticity of the statements; or
- an electronic bank statement bearing the official stamp of the bank in question. 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 you held enough funds for the full period needed.

ii) Building society pass book covering a consecutive 90 day period, ending no more than 31 days before the date of application:

The building society pass book should clearly show:

- your name; and
- your account number; and
- the building society's name and logo; and
- any transactions during the 90 day period; and

- that there have been enough funds in your account throughout the period (The balance must always have been at least £900 covering the consecutive 90 day period before the date of application).

- **iii) A letter from your bank or building society, or a letter from a financial institution regulated by the Financial Services Authority or, for overseas accounts, the home regulator (This is the official regulatory body for the country in which the institution operates and the funds are located) confirming funds and that they have been held for a consecutive 90 day period, ending no more than 31 days before the date of application:**

This letter must show:

- your name; and
- your account number; and
- the date of the letter (which must be no more than 31 days before the date of the application); and
- the financial institution's name and logo; and
- the funds held in your account; and confirmation that funds of £900 have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

The letter must be dated no more than 31 days before the date of application.

All statements must be on the bank's letterhead/official stationery

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

Documents we require if you are switching into the Government Authorised Exchange sub-category from one of the student immigration

categories.

Sponsored students

150. If you have been in the UK in one of the following categories, you may have been sponsored in your studies by Her Majesty's Government, your home government, the British Council or any international company, university or Independent School:

- Tier 4 (General) student; or
- student; or
- student nurse; or
- student re-sitting an examination; or
- student writing up a thesis; or
- Student Union sabbatical officer
- postgraduate doctor or dentist.

151. For the purpose of this section of the guidance, 'sponsored' means wholly supported by an award which covers both fees and living costs. If you have had such sponsorship within the past 12 months, you must provide us with the government or international scholarship agency's unconditional consent in writing, giving you their permission to remain in or re-enter the UK.

152. 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. If the organisation does not give unconditional consent or only gives permission for a limited time, we will refuse your application.

153. If you have received private sponsorship during your studies (for example from an employer or relative), we do not require the private sponsor's consent.

154. More advice on sponsored students is available on our website, at: www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/general-grounds-refusing/.

Evidence of qualification

155. You must provide an original degree certificate, academic transcript or an academic reference on official headed paper of the institution which must clearly show:

- your name; and
- the course title/award; and
- the course duration (except in the case of a degree certificate); and date of course completion unless you are studying a PhD course.

The academic reference must include all the information detailed above.

Documents we require if you are applying as a contractual services supplier under the International Agreement sub-category

Contractual service supplier

156. You must supply payslips to cover at least 12 months of employment, the most recent of which must be dated no earlier than one calendar month before the date your application is submitted. These should be either original payslips or on company-headed paper. If your payslips are not on headed paper or are printouts of online payslips, you must provide a letter from your employer confirming the authenticity of the payslips. This letter can be posted, faxed or scanned and emailed to you. The letter must be on company headed paper, and must be signed by a senior official.

Tier 5 (Temporary Worker) extensions

157. An applicant in any Tier 5 (Temporary Worker) sub-category will be able to extend their leave up to the maximum time in that sub-category. They will need to pass the test that is in force at the time they apply and this could be different to the test that was in place when they first came to the United Kingdom.

Supplementary employment

158. You can undertake work that is supplementary to that for which your Certificate of Sponsorship has been issued unless you are here as a private servant in a diplomatic household and your entry clearance was granted under the Rules in place on or after 6 April 2012. Supplementary employment must meet the following criteria:

- must be in either a job on the shortage occupation list in Appendix K of the Immigration Rules or a job in the same sector and at the same level as the work for which the Certificate of Sponsorship was assigned;
- must be no more than 20 hours per week;
- must be outside of your normal working hours for which your Certificate of Sponsorship was assigned.

159. If you are granted leave as a sportsperson under Tier 5 you can also take work as a temporary sports broadcaster.

160. You must continue to work for the sponsor in the employment that the Certificate of Sponsorship records that you are being sponsored to do.

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

Secondary employment

162. You cannot apply to undertake additional work that does not meet the supplementary employment criteria.

Change of employment

163. If you have previously received permission to enter or remain in the United Kingdom, you can apply for a 'change of employment' unless you are here as a private servant in a diplomatic household and your entry clearance was granted

under the Rules in place on or after 6 April 2012. This is where you wish to vary your leave in the United Kingdom because you want to change your employment, either within the same organisation or with a new organisation.

164. The work will need to be with a licensed sponsor, and you must have a new Certificate of Sponsorship.

165. You will need to provide evidence of meeting the maintenance requirement where you are making an application for a change of employment.

166. An applicant under the Tier 5 (Temporary Worker) category can apply for change of employment whilst in the United Kingdom, however, we will only grant permission to stay to reach the maximum time allowed under the relevant sub-category and they will not be able to switch into another tier, category or sub-category.

167. An applicant in the creative sector making a change of employment application can only be granted leave to take their total stay up to a maximum of 12 months. If you have already spent 12 months or more in the United Kingdom in this sub-category, therefore any change of employment application you make will be refused.

Change of circumstances

168. If during your period of employment, you wish to amend:

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

you should inform your 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/migrantchangeofcircumstanc2.pdf>

This should be sent to:

UK Border Agency

PO Box 3468

Sheffield S3 8WA

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

Multiple periods of employment in the United Kingdom

170. If you are based overseas and are required to enter the United Kingdom on a regular basis you may be issued with a multiple entry Certificate of Sponsorship.

171. This type of certificate is not required by someone wishing to travel overseas for leisure or domestic purposes or where you are based in the United Kingdom and required to travel overseas on business.

172. Where you have entry clearance, or have been granted leave to remain for more than six months, you will not be required to obtain a new Certificate of Sponsorship in order to return to the United Kingdom for each period of employment.

173. However, if you do not have entry clearance or have been granted less than six months leave to remain and you leave the common travel area (the United Kingdom, Channel Islands, Isle of Man and Republic of Ireland collectively form a common travel area) your leave will lapse. In these circumstances, you 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.

174. If you are coming to the United Kingdom under the Tier 5 (Temporary Worker) Creative and Sporting sub-category for less than three months, you are a non-visa national, and do not have entry clearance, you will not be able to take advantage of

multiple entry.

Absences from the United Kingdom

175. You may be required to be seconded overseas during the time you are employed in the United Kingdom. A new Certificate of Sponsorship will not be required if you return to the United Kingdom before your leave expires or lapses.

176. Where your 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 it expired while you were overseas, you will need to apply for fresh leave after the sponsor has assigned a new Certificate of Sponsorship.

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 you believe 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 you. 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 you 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. You 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 do you apply?

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

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

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

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

You have 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 you with a letter explaining why it is not being accepted.

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

You 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 you.

However, where the Administrative Review upholds a refusal but with different refusal grounds, you may request an administrative review of these new refusal grounds. If you have new or further information, documents or other paperwork that they failed to submit with their original application, you 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 you 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 you 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.

You are not allowed to provide new evidence. Any new evidence must be disregarded unless you were 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 you will be returned to you together with the outcome of the Administrative Review.

11. How are Administrative Review decisions made?

The administrative reviewer should focus on the areas which you have 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, you may still be refused but with new grounds for refusal.

The administrative reviewer will not recommend that the original decision is overturned simply because you claim 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

You 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, you may claim that you were unaware of the false documents or false representations. The refusal will still stand but you would have to prove that you did not know that false documents or false representations were used, if you are not to have any future applications automatically refused for 10 years. Where the documents related directly to you (for example, employment references, qualifications or financial details), such a claim would be likely to fail unless you have 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 you did not knowingly use false documents or false representations, the refusal will still stand, but you 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 are you informed of the result of the Administrative Review?

Decision upheld and the reasons for refusal remain the same:

- the administrative reviewer will notify you by letter. You 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 we were not notified of originally, you 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 you by letter and request the applicant's passport.

16. Limited Right of Appeal

You 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 your 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.