

ADDENDUM Tier 1 General – Interim Limits

ADDENDUM Tier 1 General

IMPORTANT NOTE

From 23 December 2010 Tier 1 (General) is closed to overseas applicants.

Applications from people who are not already in the UK with leave in a category that permits switching into Tier 1 (General) will no longer be accepted.

Dependants can still apply to join applicants who have obtained prior entry clearance for Tier 1 General.



Home Office

**UK Border
Agency**

Tier 1 (General)
of the Points Based System –
Policy Guidance

TIER 1
(GENERAL)

This guidance
is to be used
for applications
made on or after
6 April 2011

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INTRODUCTION

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

2. From 23 December 2010, the Tier 1 (General) category is no longer open to those applying from outside the United Kingdom. An applicant making an application from inside the United Kingdom for an extension of his/her existing leave under Tier 1 (General) should go to our website to find the application form at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier1general>

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

4. Please be advised that you should not make plans to travel outside of the Common Travel Area whilst your application is under consideration. Where you travel prior to a decision being reached on your application, your application will be treated as being withdrawn in accordance with Paragraph 34J of the Immigration Rules.

5. Please be advised that notification of our decision and any documents that you have submitted in support of your application will usually be returned by Royal Mail Recorded Delivery. If you require your documents to be returned by Royal Mail

Special Delivery you must provide a pre-paid Special Delivery envelope of a sufficient size to return all your documentation with your application.

GENERAL GUIDANCE FOR APPLICANTS TO THE POINTS BASED SYSTEM

Self-assessment

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

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

8. An applicant can enter details of his/her age, qualifications, previous earnings and experience in the United Kingdom. The points based calculator then calculates the points we may award for the attributes (main requirements) section of the points assessment. The applicant can also then enter details of his/her English language ability and whether he/she has enough money to support himself/herself in the United Kingdom.

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

10. The results of the points based calculator show the possible points an applicant might score and do 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

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

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

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

14. 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.

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

Verification and other checks

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

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

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

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

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

Verification checks

20. 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.

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

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

Reasonable doubt

23. 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

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

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

- **Verification check inconclusive.** If we cannot verify that the document is either genuine or false then we will ignore it as evidence for scoring points. If the applicant has sent other specified documents as evidence for scoring the relevant points, we will consider these as normal. If the applicant has not sent any other documents, we will award zero points in that area.

Refusing applications without making verification checks

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

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

Other checks

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

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

Extra checks

28. 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

29. There are four possible outcomes of these checks:

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

30. 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

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

32. 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.

33. If we make checks on an applicant who is self-employed we will try to establish the business presence, for example by checking business and/or tax registration.

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

Additional evidence for sponsored students

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

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

- student; or
- Tier 4; or
- student nurse; or

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

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

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

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

40. For more advice on sponsored students, see the chapter on Restrictions for some Students with Official Financial Sponsorship in the Tier 4 Policy guidance, which you can find on our website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/Tier4migrantguidance1.pdf>

Appeal Rights (in-country applications)

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

Date of application

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

- Where the application form is sent by post, the date of posting; or
- Where the application form is sent by courier, the date on which it is delivered to the UK Border Agency of the Home Office; or
- Where the application form is submitted in person at a Public Enquiry Office, the date on which the application and associated payment is accepted.

TIER 1 (GENERAL) OVERVIEW OF TERMS AND CONDITIONS

43. The following table explains some of the key features of Tier 1 (General). Full details of the requirements are at paragraph 245C to 245CE of the Immigration Rules.

Description of category:	<p>The Tier 1 (General) category is aimed at migrants who wish to engage in highly skilled employment in the UK.</p> <p>Successful applicants will be free to seek employment without having a sponsor or to take up self-employment/business opportunities in the UK.</p>
Periods of grant:	
Leave to Remain (Extension) where previous grant of leave was as a Tier 1 (General) Migrant under the Rules in place before the 06 April 2010	For a period of 2 years
Leave to Remain in all other cases	For a period of 3 years

Indefinite Leave to Remain	<p>The applicant must have spent a continuous period of five years lawfully in the United Kingdom, of which the most recent period must have been spent with permission to stay as a Tier 1 (General) migrant. The rest of this period may be made up of permission to stay as:</p> <ul style="list-style-type: none"> • Tier 1 (General) Migrant; • Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant, • Tier 2 (Intra-Company Transfer) Migrant, provided the continuous period of 5 years spent lawfully in the UK includes a period of leave as a Tier 2 (Intra-Company Transfer) Migrant granted under the Rules in place before 6 April 2010, • Highly Skilled Migrant Programme participant; • Work Permit Holder; • Innovator; • Self-Employed Lawyer; • Writer, Composer or Artist. <p>Full requirements for a grant of indefinite leave to remain under Tier 1 (General) may be found at paragraph 245CD of the Immigration Rules and in the IDI found on</p> <p>www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idichapter6a/.</p>
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Switching into the Tier 1 (General) route

Switching is permitted by applicants who have, or were last granted, leave as :

- a Highly Skilled Migrant;
- a Self-Employed Lawyer;
- a Writer, Composer or Artist;

<p>Conditions applying to applicants</p>	<p>Leave to remain under this route will be subject to the following conditions:</p> <ul style="list-style-type: none"> (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 or Dentist in Training, unless the applicant <ul style="list-style-type: none"> a) has obtained a primary degree in medicine or dentistry from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or b) is applying for leave to remain and has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to a condition restricting their employment, whether that is employment as a Doctor or Dentist in Training or otherwise, and has been employed during that leave as a Doctor or Dentist in Training. iv) No employment as a professional sportsperson (including as a sports coach).
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44. Applicants who need to leave the UK are advised to ensure that they have sufficient leave remaining to enable them to gain re-entry into the UK, as there is no longer any provision for Entry Clearance under this route. Applicants who leave the UK must therefore re-enter the UK before their existing leave expires.

45. We encourage applications to be made at least a month before the applicant's extant (still existing) leave expires. Applicants should note however that if the application is made significantly earlier than one month before the expiry of their leave, there is a risk of a shortfall in the required period of leave should they subsequently make an application for settlement. This is because any further leave to remain (for example Indefinite Leave to Remain or Settlement) is granted from the date that we make the decision, not the date the applicant's extant leave expires.

46. Applicants who wish to be exempt from the condition prohibiting employment as a Doctor or Dentist in Training must provide the documents specified in Annex A of this guidance. Where an applicant does not include all of the requested information, any grant of leave will be subject to the condition.

Please note that any grant of leave under Tier 1 **will** include the restriction on working as a doctor or dentist in training unless applicants can meet the conditions explained in Annex A.

TIER 1 (GENERAL) - POINTS SCORING

Points scoring requirements

47. In order to obtain leave to remain within Tier 1 (General) an applicant must score enough points and send supporting evidence where appropriate.

48. Important - An applicant last granted leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 19 July 2010, and who has not been granted leave in any categories other than these under the rules in place since 19 July 2010, must have 75 points from their attributes (Appendix A of the Immigration Rules).

Applicants who do not fall into the above group must score 80 points for attributes.

(Unless he/she is covered by the HSMP Forum judicial review judgment. To apply for an extension of stay these applicants will need to use the FLR Tier 1 (HSMP) application form in conjunction with the FLR Tier 1(HSMP) Guidance Notes available on the website on www.ukba.gov.uk)

All applicants **also** need to score

- 10 points for English language (Appendix B of the Immigration Rules); and
- 10 points for maintenance (funds) available (Appendix C of the Immigration Rules)

49. The points available are:

For each of the following:	Points
Qualifications	30-50*
Previous Earnings	5-80*
UK Experience;	5
Age;	5-20*
Please see relevant section below for further details.	
English Language: pass mark = 10	
Evidence to prove that the applicant speaks English to the required standard and meets the requirements of this guidance. Please see relevant section below for further details.	10
Maintenance: pass mark = 10	
Evidence to establish that the applicant holds a specified level of funds (£800) to support him or herself in the UK. Please see relevant section below for further details.	10

* Please note that this table indicates the maximum range of points for each section. For a detailed breakdown of what points are relevant to you, please see the individual tables for each attribute.

50. All the relevant requirements of the Immigration Rules must also be met.

Points tables

Applications for leave to remain where the applicant has, or last had, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 6 April 2010 and has not been granted leave in any category other than these since 6 April 2010

Qualification	Points	Previous earnings	Points	UK Experience	Points	Age (at date of application for first grant)	Points
Bachelor's degree (see paragraph 56 below)	30	£16,000-£17,999.99 (see paragraph 77 below)	5	If £16,000 or more of the previous earnings for which points are claimed were earned in the UK	5	Under 28 years of age	20
Master's degree	35	£18,000-£19,999.99 (see paragraph 77 below)	10				
PhD	50	£20,000-£22,999.99	15				
		£23,000-£25,999.99	20			28 or 29 years of age	10
		£26,000-£28,999.99	25				
		£29,000-£31,999.99	30				
		£32,000-£34,999.99	35				
		£35,000-£39,999.99	40			30 or 31 years of age	5
		£40,000 or more	45				

All other application for leave to remain

Qualification	Points	Previous earnings	Points	UK Experience	Points	Age (at date of application for first grant)	Points		
Bachelor's degree	30	£25,000-£29,999.99	5	If £25,000 or more of the previous earnings for which points are claimed were earned in the UK	5	Under 30 years of age	20		
Master's degree	35	£30,000-£34,999.99	15						
PhD	45	£35,000-£39,999.99	20						
		£40,000-£49,999.99	25					30 to 34 years of age	10
		£50,000-£54,999.99	30					35 to 39 years of age	5
		£55,000-£64,999.99	35						
		£65,000-£74,999.99	40						
		£75,000-£149,999.99	45						
		£150,000 or more	80						

ATTRIBUTES.

Age

51. Please refer to Appendix A Table 2 and 3 and paragraph 33 and 34 of the Immigration Rules and the tables of points above.

52. This assessment is intended to recognise that it is more difficult for a highly skilled young graduate to score maximum points in the previous earnings category, compared to an older counterpart with the same level of skills. There is a greater potential for young highly skilled individuals to be active in the labour market for longer than their older counterparts. The age assessment involves the award of points depending on age.

53. If the applicant was first granted leave in the categories of Highly Skilled Migrant, Writer, Composer or Artist, Self-employed lawyer or Tier 1 (General) Migrant and has not been granted leave in any category other than those listed here since the first grant of leave, points will be awarded based on the applicant's age at the date of the application for that first grant of leave. If the applicant has been granted leave since his first grant of leave in a category not listed in this paragraph, points will be awarded based on his age at the date of application for a grant of leave in a category listed in this paragraph where leave has not been granted in any category not listed in this paragraph between that grant of leave and the current application. To claim these points, applicants must fall within the age bands specified.

Documents Required – All Applications

54. Paragraph 245A of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

i) Biometric Residence Permit, which contains the date of approval of the last grant of leave and the age of the applicant; or

ii) Current valid original passport/travel document containing the last visa granted to the applicant.

Where an applicant has had more than one grant of leave in the category we will use the details on the Biometric Residence Permit or visa in the passport together with the details held on our database to confirm the date of entry to the category.

Qualifications

55. An applicant can claim points according to the level of the qualification he/she has. Please refer to Appendix A Table 2 and 3 and paragraphs 12-17 of the Immigration Rules.

56. An applicant will be awarded no points for a Bachelor's degree if:

(a) his last grant of entry clearance was as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010, or

(b) (i) he has had leave to remain as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010, and

(ii) his previous entry clearance, leave to enter or leave to remain before that leave was not as a Highly Skilled Migrant, as a Writer, Composer or Artist, as a Self-employed Lawyer, or as a Tier 1 (General) Migrant.

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

58. To score the relevant points, the academic qualification must meet, or exceed, the recognised standard of a United Kingdom bachelor's, master's or PhD, as verified by the National Academic Recognition Information Centre for the United Kingdom (UK NARIC). Points can also be awarded for vocational and professional qualifications

where they are at least equivalent to one of the levels set out above providing that they can be verified either through UK NARIC or by the appropriate UK professional body.

59. Points can only be awarded if we receive the specified documentary evidence of the applicant's qualification. More information on this is contained in the section below .

60. There may be a very small number of applicants who are currently in the United Kingdom under Tier 1 (General) or the Highly Skilled Migrant Programme and whose qualification has previously been assessed to be of a higher level than shown by the Tier 1 (General) points based calculator. These applicants may claim the higher points score, in line with the previous assessment, provided they are using the same qualification as used in their initial application. Appendix A paragraph 17 of the Immigration Rules gives more details.

61. An applicant who is not sure what points he/she was previously awarded under the HSMP should contact the Customer Contact Centre on 0114 207 4074.

62. In these cases, we will refer to our records. We will only be able to award a higher points score where each of the following requirements is met:

- the applicant is currently in the United Kingdom under Tier 1 (General) or the Highly Skilled Migrant Programme;
- the applicant is relying on the same qualification for which we previously awarded points in this area;
- the earlier assessment of the qualification confirmed that it was equivalent to a higher level of qualification than is now shown by the points based calculator; and
- there is no evidence that the applicant used deception to obtain the earlier decision.

How qualifications are assessed

63. We will assess the qualifications an applicant uses by referring to the points based calculator on our website. The calculator contains information from UK NARIC on the equivalency of overseas qualifications.

64. UK NARIC is a private company that specialises in comparing overseas qualifications to United Kingdom academic levels. An applicant should claim points if the points based calculator confirms that the qualification used meets or exceeds the recognised standard of a Master's degree or a PhD in the United Kingdom and for extension applications the recognised standard of a Bachelor's degree.

Checking qualifications

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

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

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

68. For professional/vocational qualifications, where the applicant is unable to find details of his/her qualification on the points based calculator, he/she may still wish to claim points for the qualification in question. In these circumstances the applicant should obtain written confirmation

from the appropriate UK professional body of the qualification's equivalence to UK academic levels. Please note the alternative evidence will only be accepted where UK NARIC has made no assessment. If UK NARIC has assessed the qualification, we will use that assessment in scoring the application and disregard any evidence supplied from the professional body.

Documents required – all applications

69. An applicant who has previously been given permission to stay in the United Kingdom under Tier 1 (General) or the Highly Skilled Migrant Programme, and previously scored points for the same qualification for which he/she wishes to claim points in his/her current application, does not need to send evidence of his/her qualification again.

70. Paragraph 245A of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

i) Original certificate of award of the qualification. This document must be the original (not a copy) and must clearly show the:

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

We will not accept original **provisional** certificates. The original certificate of award must always be provided unless the applicant is awaiting graduation having successfully completed their degree or the applicant no longer has the certificate and the institution who issued the certificate is unable to produce a replacement. In which case he/she should send:

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

transcript.

71. If the applicant is awaiting graduation but has successfully completed his/her degree or no longer has the certificate and the awarding institution is unable to issue a replacement, he/she should send an original academic reference from the institution that is awarding the degree together with an original academic transcript.

72. The academic reference from the institution awarding the degree must be on the official headed paper of the institution and clearly show the:

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

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

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

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

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

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

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

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

Previous earnings

76. Further information can be found in Appendix A tables 2 and 3 and paragraphs 12, and 18 -30 of the Immigration Rules.

77. An applicant will be awarded no points for previous earnings of less than £20,000 if:

(a) his last grant of entry clearance was as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010, or

(b) (i) he has had leave to remain as a Tier 1 (General) Migrant under the rules in place between 31 March 2009 and 5 April 2010, and

(ii) his previous entry clearance, leave to enter or leave to remain before that leave was not as a Highly Skilled Migrant, as a Writer, Composer or Artist, as a Self-employed Lawyer, or as a Tier 1 (General) Migrant.

78. An applicant can claim points for the earnings he/she has previously made for his/her work.

79. The applicant can claim points for previous earnings in any single, consecutive 12-month period during the 15 months immediately before the date of applying. An applicant may claim points for a 12-month period of earnings outside of this 15 months if they can show that he/she has been:

- away from the workplace for a time during the last 12 months because of a period of maternity or adoption-related absence.

80. All the periods we specify are calendar months (for example 14 January – 13 February).

81. If an applicant claims for a period of earnings that is more than 12 months, or has not indicated a period for assessment of earnings, we will assess the most recent period of 12 months for which he/she has provided evidence.

82. Additionally, we will not consider evidence of earnings from a period outside the 15 months immediately before the application, except when an applicant is claiming a period of absence for maternity or adoption-related absence.

83. An applicant does not have to be in continuous or full-time employment during the 12 months being assessed.

84. An applicant may claim for a period of earnings of less than 12 months if they have earned sufficient funds to claim the necessary points.

85. We will only consider actual earnings. We will never consider earnings claimed on a **pro rata** basis (for example when the applicant has worked part-time and tries to claim for what he/she might have earned if the work had been full-time).

Maternity or adoption-related absence

86. The provision for maternity or adoption-related absence is designed to allow an applicant to claim points for previous earnings under Tier 1 (General) if he/she has been unable to earn during the 12 months before the application because of a period of maternity or adoption-related absence from the workplace.

87. This rule allows an applicant to claim previous earnings for 12 months of the most recent 15-month period in which he/she has been working, not counting the period of maternity or adoption-related absence.

For example: An applicant has been working for four months, takes a period of maternity or adoption-related absence for 12 months, then returns to work for eight months before applying. In these circumstances we would consider the combined periods of four and eight months during which the applicant worked, but would not count the 12 months of maternity or adoption-related absence.

88. The maximum period of maternity or adoption-related absence that we will discount is 12 months.

89. If the applicant is still absent from work for maternity or adoption-related reasons at the time of his/her application, we will consider a period of 12 months taken from the 15 months immediately before the absence began.

90. An applicant who has had maternity or adoption-related absence in the 12 months before his/her application can claim for earnings during this period if they wish, such as statutory maternity or adoption payments.

Documents required

91. For us to consider earnings from a period before the 15 months immediately before the application, because of maternity or adoption-related absence from the workplace (for the purposes of paragraph 245A of the Immigration Rules) the applicant must provide **two pieces** of specified

evidence to prove that absence was for maternity or adoption reasons. The specified documents that meet the requirements of the Immigration Rules are listed below.

i) Birth certificate or certificate of adoption (as appropriate). This should be the original full birth certificate or original full certificate of adoption (containing the names of parents/ adoptive parents) of the child for whom the period of maternity or adoption-related absence was taken. This certificate should always be sent if one has been issued.

The applicant must also send one of the following (or both if the birth certificate or certificate of adoption is not available):

ii) Letter from the applicant's employer. This should be an original letter, on the company headed paper, and must confirm the start and end dates of the period of maternity or adoption-related absence.

and/or

iii) Payslips or other payment or remittance documents. These should cover the entire period for which the maternity or adoption-related absence is being claimed and should show the statutory maternity or adoption payments to the applicant. Documents provided must be original, and on the official letter-headed paper of the issuing authority.

If the birth certificate or certificate of adoption is not available then an applicant should provide the documents specified at ii) and iii) above.

If the applicant is unable to supply two documents from the three listed above, he/she may use another document listed at iv) below as an alternative for one of the pieces of evidence required. However, at least one piece of evidence to prove the maternity or adoption-related absence must be one of those specified in i) to iii) above.

iv) Other documents. In certain circumstances the applicant will be

unable to supply two of the documents specified at i) to iii) above (for example if no birth certificate has been issued). In these cases, the applicant should fully explain the reasons and supply alternative documents as evidence of the maternity or adoption-related absence for the period claimed. The alternative documents must be from an official source and must be independently verifiable.

We can only accept other documents as evidence of maternity or adoption-related absence if we are satisfied that the specified documents cannot be provided.

Where two of the specified documents at i) to iii) above are not available we will accept the following alternative documents or types of documents:

- official adoption papers issued by the relevant authority;
- any relevant medical documents that the applicant is content to let us see;
- a relevant extract from a register of birth provided it is accompanied by an original letter from the issuing authority.

We will not accept the following documents or types of documents:

- personal letters of confirmation;
- newspaper announcements;
- other unofficial document.

Assessment of previous earnings

92. We will assess an applicant's earnings. If an applicant is in salaried employment, (including a Director of a company for example) we will assess the applicant's gross salary before tax. This also includes self-employed applicants who draw a salary from their businesses. If the applicant earned the money in a country with no tax system, we will consider his/her total earnings for the period.

93. If an applicant is self-employed and has chosen to retain the profits within the business, his/her earnings are limited to the share of the business's **net** profits to which he/she is entitled. The appropriate proportion of the net profit of the business (that is, after tax and outgoings) can therefore be counted as the gross salary of the applicant. We will only consider profits made during the appropriate 12-month earnings period for which the applicant is claiming.

94. We will not consider earnings made during a time when the applicant was in breach of the United Kingdom's immigration laws.

For example: Earnings made from United Kingdom employment will only be considered if the applicant had leave to enter or remain in the United Kingdom at the time they were earned, and in a category which permitted the applicant to take that employment.

95. If an applicant has earned monies in the UK for a period during which he/she remained overseas (eg. a company director drawing a UK salary but remaining based outside the UK) such earnings will be accepted.

Earnings we will include in the assessment

96. We will include previous earnings from:

- salaried employment; or
- self-employed activities.

97. Where an applicant is claiming earnings for self employment in the UK, additional documentation will be required to demonstrate that they are established as being self employed.

98. An applicant's overall total earnings can include those from several sources of work, including a combination of salaried employment and self-employed activities.

99. Earnings do not need to have been with a single employer.

100. Earnings can be considered from full-time, part-time, temporary and short-term work.

101. Earnings may include, among other things:

- salaries (includes full-time, part-time, and bonuses);
- earnings from self-employment;
- earnings from business activities;
- statutory and contractual maternity pay and statutory and contractual adoption pay;
- allowances (such as accommodation, schooling or car allowances) that form part of an applicant's remuneration package;
- dividends paid by a company in which the applicant is active in the day-to-day management, or where the applicant receives the dividend as part or all of his/her remuneration package;
- income from property rental, where this forms part of the applicant's business; and
- payment in lieu of notice (a payment made instead of requiring an employee to work the normal period of notice when leaving a job).

102. Unearned sources of income that we will not consider as previous earnings include:

- expenses (such as accommodation, schooling or car allowances) that reimburse the applicant for money he/she has previously spent;
- dividends, unless paid by a company in which the applicant is active in the day-to-day management, or unless the applicant receives the dividend as part or all of his/her remuneration package;
- income from property rental, unless this forms part of the applicant's business;
- interest on savings and investments;

- funds that were inherited;

- money paid to the applicant as a pension;

- expenses where the payment reimburses the applicant for money he/she has previously spent;

- redundancy payment;

- sponsorship for periods of study;

- state benefits; or

- prize money or competition winnings, other than where they are directly related to the applicant's main profession or occupation.

Allowances

103. We will only include allowances (such as those for accommodation or schooling for an applicant's children) in the assessment of an applicant's previous earnings if they are part of an applicant's remuneration package and are not paid to reimburse the applicant for money he/she has previously spent.

104. We will only accept allowances as earnings if they are declared in the applicant's payslips and there is a contractual obligation on the employer's part to make these payments.

Converting overseas earnings into pounds sterling (£)

105. Earnings made overseas must be converted into pounds sterling so that we can assess them. The official exchange rate we use is the one produced by OANDA.

106. An applicant should use the closing exchange rate on the OANDA website at www.oanda.com/currency/classic-converter on the last day of the period for which he/she has claimed earnings in that currency. This is an independent website, for which we are not responsible.

107. If the applicant's overseas earnings fall either side of a period of maternity or adoption-related absence, we will calculate earnings using the closing exchange rate for the last day of each period of earnings claimed.

108. If, during the period for which we are considering the applicant's previous earnings, he/she has earned money from outside the United Kingdom, he/she can include these in the calculation to score points for earnings. The applicant should provide details of the overseas earnings, in the original currency in which they were paid. The applicant should convert these earnings into pounds sterling by using the closing exchange rate on the OANDA website for the last day of the period for which he/she has claimed earnings in that currency.

Documents required

109. We will only award points for previous earnings if the applicant sends specified supporting documentary evidence with his/her application.

110. The applicant must provide at least **two different types** of supporting document for each source of earnings claimed. Each piece of supporting evidence must be from a separate source and support all the other evidence so that together they clearly prove the earnings claimed. For example: When providing documents for salaried employment, an applicant should not send payslips together with a P60, because we consider both of these documents to be from the same source.

111. Supporting documents must show all the relevant earnings claimed by the applicant. If earnings from a particular source have been paid in more than one way, the applicant must send two types of document for each part of the payment claimed.

For example: An applicant has been paid for his/her salaried employment by means of a salary and a dividend. If the gross and net dividend payments are included on the applicant's payslip, and can be supported by details of the net dividend payment on the applicant's bank statements, the applicant could submit bank statements and payslips as supporting evidence for both the salary and the dividend claimed. However, if the dividend details are not included on the payslips, the applicant must also send

separate dividend vouchers to support the dividend payments and cross-reference these with the bank statements he/she provides.

112. Where an applicant is providing evidence from an accountant or accountancy firm the accountant must be either a fully qualified chartered accountant or a certified accountant who is a member of a registered body. If the earnings were for work done while the applicant was in the UK, such evidence must come from an accountant or accountancy firm in the UK who is a member of a recognised supervisory body. These are: The Institute of Chartered Accountants in England and Wales (ICAEW); the Institute of Chartered Accountants in Scotland (ICAS); the Institute of Chartered Accountants in Ireland (ICAI); the Association of Chartered Certified Accountants (ACCA); the Chartered Institute of Public Finance and Accountancy (CIPFA); or the Chartered Institute of Management Accountants (CIMA). If the earnings were made while the applicant was not in the UK, the evidence must come from one of the above accountants or from an accountant or accountancy firm on the list of full members given on the website of the International Federation of Accountants, on <http://web.ifac.org/about/member-bodies>

113. In addition to the documents required to demonstrate earnings, applicants claiming points for self-employed earnings made in the UK must provide documents to show that they are registered as self-employed and were registered as self-employed for the period when this money was earned.

114. Paragraph 245A of the Immigration Rules states that we will only award points when an applicant provides the specified evidence that he/she meets the requirements for this category. The specified documents are as follows:

- i) Payslips: These should be either formal payslips or on company headed paper. Where formal payslips are produced on plain paper they **must** be stamped and signed by the employer. Payslips which are not on headed paper or if the applicant

receives all pay slips online, he/she must authenticate the evidence by asking the employer to sign and stamp a printout. If the applicant provides payslips, they must cover the whole period claimed (for example, if payslips are produced monthly, the applicant must provide the payslip for each month of the period claimed).

ii) Personal bank statements showing the payments made to the applicant: Bank statements provided must be on official bank stationery, and must show each of the payments that the applicant is claiming. If the applicant wishes to submit electronic bank statements from an online account he/ she should also provide a supporting letter from the bank on company headed paper confirming that the documents are authentic. Alternatively an electronic bank statement bearing the official stamp of the bank issuing the statements will be accepted. This stamp must appear on every page of the statement. For the purposes of this guidance an online bank account is one that operates solely over the internet and sends their bank statements to their customers electronically (for example over the internet or via email).

iii) Letter from the applicant's (previous and/ or present) employer(s) (or in the case of winnings, the relevant awarding body) confirming that he/she has received the exact amount claimed. This is a letter on company headed paper which clearly shows the applicant's earnings during period claimed, and the date and amount of each payment. This letter should be dated after the period for which earnings are being claimed and should clearly show the applicant's gross and net pay.

(Where an employer letter includes only total gross and net earnings figures for the whole earnings period claimed, we will consider this document. However, only where the dates of the earning period and the total gross/net earnings stated in the letter exactly correspond with the information included in the other documentary evidence of these earnings provided, will we be able to award points.)

iv) Official tax document produced by the tax authority or employer, showing earnings on which tax has been paid or will be paid in a tax year. For these purposes, we define official tax documents as:

- a document produced by a tax authority that shows details of declarable taxable income on which tax has been paid or will be paid in a tax year (for example a tax refund letter or tax demand);
- a document produced by an employer as an official return to a tax authority, showing details of earnings on which tax has been paid in a tax year (for example a P60 in the United Kingdom); or
- a document produced by a person, business, or company as an official return to a tax authority, showing details of earnings on which tax has been paid or will be paid in a tax year. The document must have been approved, registered, or stamped by the tax authority (this is particularly relevant to some overseas tax systems, for example SARAL in India).

Please note that because tax documents are usually produced at the end of a fixed tax period they will not necessarily show the entire period for which the applicant is claiming previous earnings unless they are for the exact period claimed. An applicant should therefore be cautious about using these documents unless he/she is sure they show the exact amount of earnings for which he/she is claiming points.

v) Dividend vouchers. Dividend vouchers must show the amount of money paid by the company to the applicant, normally from its profits. They should confirm both the gross and net dividend paid. An applicant should provide a separate dividend voucher or payment advice slip for each dividend payment, to cover the whole period claimed.

vi) Self-employed applicants only - letter from the applicant's accountant (confirming that the applicant received the exact amount he/she is claiming, or the net profit to which he/she is entitled). This is a letter

from the applicant's accountant on headed paper confirming the gross and net pay for the period claimed. The letter should give a breakdown of salary, dividends, profits, tax credits and dates of net payments earned. If the applicant's earnings are a share of the net profit of the company, the letter should also explain this. All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body, see section on providing evidence from an accountant or accountancy firm.

vii) Invoice explanations or payment summaries from the applicant's accountant. These are summaries or explanations created by an applicant's accountant. These explanations should include a breakdown of the gross salary, tax deductions and dividend payments made to the applicant. The total gross salary and dividend payments should be the same as the applicant's earnings. The payment summary should enable us to check that these correspond with the net payments into the applicant's personal bank account. All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body, see section on providing evidence from an accountant or accountancy firm.

viii) Company or business accounts that clearly show the net profit of the company or business. Accounts must show both a profit and loss account (or income and expenditure account if the organisation is not trading for profit) and the balance sheet should be signed by a director. Accounts should meet statutory requirements and should clearly show the net profit made over the earnings period to be assessed.

ix) Business bank statements showing the payments made to the applicant: Bank statements provided must be on official bank stationery, and must show each of the payments that the applicant is claiming. If the applicant wishes to submit electronic bank statements from an online account he/ she should also provide a supporting

letter from the bank on company headed paper confirming that the documents are authentic. Alternatively an electronic bank statement bearing the official stamp of the bank issuing the statements will be accepted. This stamp must appear on every page of the statement. For the purposes of this guidance an online bank account is one that operates solely over the internet and sends their bank statements to their customers electronically (for example over the internet or via email).

x) Where an applicant is submitting a combination of bank statements and a letter/invoice summary from their accountant, they must also provide any invoices generated during the period for which earnings are being claimed. All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body, see section on providing evidence from an accountant or accountancy firm.

115. If the applicant is claiming earnings from self employment in the UK, he/she must provide evidence that he/she was paying Class 2 National Insurance contributions during the period/s of self-employment used to claim points.

116. National Insurance contributions may be paid by quarterly bill or direct debit, or the applicant may have applied for a small earnings exception certificate. Applicants must provide one of the following documents, according to their individual circumstances.

i) If the applicant's National Insurance is paid by quarterly bill: The applicant must provide the bill from the quarter immediately before the application. This must be an original document and not a copy.

ii) If the applicant's National Insurance is paid by direct debit: The applicant must provide a copy of the most recent bank statement issued before the application, showing the direct debit payment of National Insurance to HM Revenue & Customs. Please see the requirements for

bank statements above.

iii) If the applicant has low earnings: The applicant should provide an original small earnings exception certificate issued by HM Revenue & Customs for the most recent return date.

iv) Original welcome letter from HM Revenue & Customs: Applicants who have recently registered as self-employed will have received a welcome letter from HM Revenue & Customs containing their unique taxpayer reference number, but may not yet have the other evidence above. The original, dated document should be provided.

HM Revenue & Customs will issue the welcome letter or the small earnings certificate at any time up to six weeks from the date of first contact with the self-employed applicant.

Extra information required

117. An applicant must provide full contact details for each source of income he/she gives us, so we can verify all supporting documents if necessary.

118. An applicant should also provide any information or explanation of the documents submitted that may help us to consider the earnings claimed.

For example:

An applicant is operating through a limited liability company that is administered on his/her behalf by an accountant. The name on the payment advice may therefore differ from the credit payment entries on the applicant's bank statements. In these cases the applicant should provide a letter from his/her accountant to clarify the relationship between everyone concerned; or

An applicant is one of a number of shareholders in the business and is claiming for net profits made over the earnings period. The applicant should provide a letter from his/her accountant, confirming the percentage

share he/she is entitled to receive from the business's net profit (before the applicant has paid any additional tax due). All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body, see section on providing evidence from an accountant or accountancy firm.

Examples of document combinations to provide

119. The evidence an applicant can provide will depend on his/her circumstances and how he/she earned the money. We give examples of typical combinations of documents below. We have divided them into employment types to help an applicant find the right examples.

120. These examples are not the only combination of documents we will accept for each employment type and an applicant can use other combinations of documents, providing these meet the requirements of the 'documents required' section above:

Employees who receive a salary:

A salaried employee could provide a combination of:

- personal bank statements covering the full 12-month earnings period;

and either:

- payslips for the full 12-month earnings period; or
- a letter from their employer.
- (We consider that payslips and letters from an employer are from the same source and an applicant should therefore not provide a combination of these two types of document.)

Employees who receive a salary and dividend payments:

- If the applicant is paid with a combination of salary and dividends, and both payments appear on the applicant's payslip, this employee could provide:

- personal bank statements for the full 12-month earnings period

and either:

- payslips for the full 12-month earnings period; or
- a letter from his/her employer.

If the applicant is paid with a combination of salary and dividends, and the salary and dividend payments do not both appear on the applicant's payslip, this employee could provide the documents listed above plus:

- dividend vouchers for each dividend payment claimed, showing both the gross and the net dividend.

Self-employed earnings within a business or company structure:

If an applicant has worked in a self-employed capacity in his/her own business or company structure and has chosen to keep his/her earnings within the business or company, he/she could provide:

- business or company accounts that meet statutory requirements and show the **net** profit made for the earnings period claimed; and
- personal/business bank statements.

If the applicant's accounts and bank statements only show the gross amount of profit for the business he/she should also provide a third piece of evidence showing the net profit of the business for the period claimed, for example a corporation tax return or an accountant's letter. This is because we can only consider the net profit of the business for the applicant's income.

If the applicant is not the sole shareholder of the company he/she should also provide:

- a letter from his/her accountant confirming his/her shareholding and the proportion of net profit before tax to which he/she is entitled for the earnings period claimed.

All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body, see section on providing evidence from an accountant or accountancy firm.

Contractors:

If the applicant is a contractor who does not operate either through his/her own company or as an employee, he/she may provide:

- an accountant's letter confirming a breakdown of his/her gross and net earnings for the period claimed; and
- personal bank statements clearly highlighting all credit payments made to his/her account from employment undertaken during the earnings period claimed.

All accountants must be either fully qualified chartered accountants or certified accountants who are members of a registered body, see section on providing evidence from an accountant or accountancy firm.

UK experience

Claiming points – initial applications only

121. An applicant should read Appendix A, tables 2 and 3 and paragraphs 12, 31 and 32 of the Immigration Rules.

122. An applicant can claim a maximum of five points if he/she has scored points for previous earnings and those earnings were made in the United Kingdom.

123. We will only award points for United Kingdom earnings if the applicant's immigration status in the United Kingdom legally entitled him/her to be in the United Kingdom and work here throughout the period during which the earnings were made.

124. Applicants should note that the available points for UK experience differ at extension stage depending on what date they first successfully applied under Tier 1 (General) or the Highly Skilled Migrant Programme (HSMP).

Applications for leave to remain where the applicant has, or was last granted, leave as a Highly Skilled Migrant, as a Writer, Composer or Artist, Self-employed Lawyer, or as a Tier 1 (General) Migrant under the rules in place before 6 April 2010

An applicant may claim points for previous United Kingdom earnings if:

- he/she has scored points in the section for previous earnings; and
- the earnings for which those points were awarded were made in the United Kingdom.

125. If an applicant has claimed points in the section for previous earnings, and these were for earnings made both in the United Kingdom and outside the United Kingdom, at least £16,000 of the earnings must be United Kingdom earnings to receive the points for UK Experience.

Applications for leave to remain where the applicant has, or last had, leave as a Tier 1 (General) Migrant under the rules in place on or after 5 April 2010 and including the rules in place after 19 July 2010.

An applicant may claim points for previous United Kingdom earnings if:

- he/she has scored points in the section for previous earnings; and
- the earnings for which those points were awarded were made in the United Kingdom.

126. If an applicant has claimed points in the section for previous earnings, and these were for earnings made both in the United Kingdom and outside the United Kingdom, at least £25,000 of the earnings must be United Kingdom earnings to receive the points for UK.

127. There are no specific documentary requirements for claims in this area as the necessary documentation will have been provided in respect of the Previous Earnings assessment.

ENGLISH LANGUAGE REQUIREMENT

English language assessment

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

129. In order to qualify an applicant must provide the specified documents to show that she/he has a good knowledge of English.

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

- be a national of a majority English speaking country; or
- pass an English language test detailed in this guidance; or
- hold a degree that was taught in English and is equivalent to a United Kingdom bachelor's degree or above.

Claiming points

131. An applicant meets the English language requirement, without the need to provide evidence, if he/she was last given permission to stay in the United Kingdom:

- under Tier 1 (General) and is applying for an extension of leave to remain; or
- as a Highly Skilled Migrant Programme participant under the Immigration Rules which came into force on 5 December 2006 and is applying for an extension of leave to remain under a Tier 1 category.

132. Applications from people who are unable to score 10 points in the section for English language requirements will be refused. We will refuse these applications even if the applicant has attained the pass mark for attributes and has met all the other requirements of the Immigration Rules for permission to stay as a Tier 1 migrant.

National of a majority English speaking country

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

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

Documents we require

134. Appendix B of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement.

The specified documents are:

- i) Current valid original passport or travel document

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

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

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

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

- ii) Current national identity document.
- iii) Original letter from the applicant's home government or embassy. This document must be original, on the letter-headed paper of the government or embassy and must bear the official stamp of that institution. It must have been issued by an authorised official of that institution and must confirm the applicant's:

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

English language test

135. We will only accept test certificates from providers that have been assessed as meeting our requirements. Applicants must do this by checking that they have passed an English language test that is still within its validity period, and have achieved at least CEFR level C1 in all four components (reading, writing, speaking and listening).

136. Only the English language tests that have been assessed as meeting our requirements prior to 6 April 2011 will be accepted for applications received on or before 17 May 2011. Details are available on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier1/general/eligibility/pointsassessment/englishlanguage/>

137. Only the English Language tests that have been assessed as meeting our requirements from the 6 April 2011 will be accepted for applications received on or after 18 May 2011. Details are available on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/tier1/general/eligibility/pointsassessment/englishlanguage/>

138. Applicants with disabilities (for example, hearing difficulties) are not exempt from the English language requirement. They should contact a test provider for details of support that can be provided while taking the test.

Applicants waiting to sit an English language test or waiting for their test result

139. Some people applying for leave to remain under Tier 1 need to make their application before they have taken, or received the results of, an English language test.

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

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

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

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

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

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

Documents we require

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

i) Original test result certificate. The certificate must clearly show the:

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

146. The only exception to this requirement is where the applicant has undertaken the PTE Academic test. In these cases the applicant should provide a print out of their online score report. Applicants should also ensure that they have made their online results available to the UK Border Agency on the Pearson verification system. Where an applicant fails to do this no points will be awarded for English Language.

Degree taught in English

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

148. The degree **must**:

- be recognised by National Academic Recognition Information Centre for the United Kingdom (UK NARIC) as equivalent to a United Kingdom Bachelor's degree; and

- have been taught in English to a standard comparable to that of level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment (CEFR). Details can be found on the Council of Europe website at http://www.coe.int/t/dg4/linguistic/CADRE_EN.asp.

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

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

Please note that Canada is not on this list.

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

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

- meets or exceeds the equivalent level to United Kingdom Bachelors degree; and
- was taught to a competent standard of English equivalent to level C1 on the Council of Europe's Common European Framework of Reference for Languages: Learning, Teaching, Assessment (CEFR).

Checking qualifications

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

153. Where the points based calculator is unable to confirm these details, points will not be awarded for the qualification in question.

154. Where the applicant is unable to find details of their qualification on the points based calculator, UK NARIC will not be able to verify whether a qualification satisfies the English Language requirement. In these circumstances, applicants should either present an alternative qualification from the points based calculator if they possess one, or select an alternative means of satisfying the English Language requirement.

Documents we require

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

i) Original certificate of award. This document must be original and must clearly show the:

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

Please note that original provisional certificates are not acceptable

This document must always be provided unless the applicant is awaiting graduation but has successfully completed his/her degree or no longer has the certificate and the awarding institution is unable to issue a replacement, he/she should send an original academic reference from the institution that is awarding the degree together with an original academic transcript.

ii) Academic reference together with an original academic transcript

The academic reference from the institution awarding the degree must be on the official headed paper of the institution and clearly show the:

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

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

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

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

MAINTENANCE (FUNDS)

Maintenance requirement – all applications

156. One of the requirements of Tier 1 is that an applicant must be able to support himself/herself for the entire duration of his/her stay in the United Kingdom without use of public funds (benefits provided by the state). An applicant who is unable to support himself/herself could face financial hardship because he/she will not have access to most state benefits.

157. In order to qualify for leave to remain under Tier 1 an applicant must show that he/she has enough money to support himself/herself. The maintenance requirements are detailed below:

158. Applicants in the United Kingdom seeking further leave to remain must have at least £800 of personal savings which must have been held for a consecutive 90 day period prior to the date of application

159. The exchange rate of overseas currency will be made using the OANDA rate conversion on the date of application. www.oanda.com

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

161. Any dependants wishing to join the main applicant must also provide evidence that they have access to sufficient funds. Please refer to the Dependants guidance which can be found on our website at: <http://www.ukba.homeoffice.gov.uk/workingintheuk/>. Where the main applicant's application is made at the same time as applications by the partner or child of the main applicant, each applicant must have the total requisite funds

specified in the relevant parts of Appendices C and E of the Immigration Rules. If each applicant does not individually meet the requirements of Appendices C and / or E, as appropriate, all the applications (the application by the Relevant Points Based System Migrant and applications as the partner or child of that Relevant Points Based System Migrant) will be refused.

162. We will not consider money earned during a time that an applicant was in breach of the United Kingdom's immigration laws as evidence of maintenance funds.

163. For example: Earnings made from United Kingdom employment will only be considered if the applicant had leave to enter or remain in the United Kingdom at the time they were earned, and in a category which permitted the applicant to take that employment.

Documents we require

164. 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.

165. 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, pension funds etc, are not acceptable, regardless of notice period.

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

167. Where an applicant is providing evidence of maintenance from a single account, we will always assess the funds available to an applicant from the closing balance given on the document provided.

168. 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 the applicant from the closing balance of the most recent document.

169. Where evidence from two or more accounts are submitted, we will assess the funds available to the applicant using:

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

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

170. 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 more than one calendar month before the date of application.

The personal bank or building society statements should clearly show:

- the applicant's name;
- the account number;
- the date of the statement;
- the financial institution's name and logo;
- any transactions during the 90 day period;
- that there are enough funds present in the account (the balance must always be at least £800) covering the 90 day period before the date of application;

All statements must be on the bank's

stationery, unless the applicant is submitting electronic statements.

Ad hoc bank statements printed on the bank's letterhead/stationery are admissible as evidence (this excludes mini-statements from cash points).

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

- a supporting letter from his/her 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 will be accepted. This stamp should appear on every page of the statement.

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

- ii) Building society pass book covering a consecutive 90 day period, ending no more than one calendar month before the date of application:

The building society pass book should clearly show:

- the applicant's name;
- the account number;
- the financial institution's name and logo;
- any transactions during the 90 day period;
- that there have been enough funds present in the account (the balance must always be at least £800) covering the consecutive 90 day period before the date of application.

iii) Letter from bank confirming funds and that they have been in the bank for a consecutive 90 day period, ending no more than one calendar month before the date of application:

The letter from a bank or building society should show:

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in the applicant's account;
- that the funds of £800 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 one calendar month before the date of application.

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

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

iv) Letter from a financial institution regulated by the Financial Services Authority (FSA) or, in the case of overseas accounts, the home regulator (official regulatory body for the country in which the institution operates and the funds are located) confirming funds and that they have been held for a consecutive 90 day period, ending no more than one calendar month before the date of application:

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

- the applicant's name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in the applicant's account; and
- that the funds of £800 have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

The letter must be dated no more than one calendar month before the date of application. All statements must be on the bank's letterhead/official stationery.

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

ANNEX A – EVIDENCE REQUIRED TO BE PERMITTED WORK AS A DOCTOR OR DENTIST IN TRAINING.

Where an applicant was last granted leave under Tier 1 (General) or the Highly Skilled Migrant Programme which was not subject to a condition restricting their employment and they were employed during this period as a doctor in training or on an NHS foundation programme or:

Where they have obtained a degree in medicine or dentistry from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System they can apply to be exempted from the condition prohibiting this type of employment.

In order to qualify for this exemption an applicant should provide the following evidence:

To prove that they are/were 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/had during their last period of leave a place on a Foundation Programme; and
- The Foundation Programme is recognised by the medical community; and
- The place on the Foundation Programme is/was full time.

To Prove that they are/were working as a Doctor in Training- the applicant must provide a letter from the NHS Trust employing them, confirming that they are/were (during the period of their last leave) working in a post/programme that has been approved by the Postgraduate Medical Education and Training Board as a training programme or post.

Where an applicant does not include all of the requested information, any grant of leave will be subject to the 'Doctor in Training' restriction.

To prove that they have obtained a degree in medicine or dentistry from a UK institution that is a UK recognised or listed body, or

which holds a sponsor licence under Tier 4 of the Points Based System.

i) Original certificate of award of the qualification. This document must be the original (not a copy) and must clearly show the:

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

We will not accept original provisional certificates.

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

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

If the applicant is awaiting graduation but has successfully completed his/her degree or no longer has the certificate and the awarding institution is unable to issue a replacement, he/she should send an original academic reference from the institution that is awarding the degree together with an original academic transcript.

The academic reference from the institution awarding the degree must be on the official headed paper of the institution and clearly show the:

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

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

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

ANNEX B - Transitional Arrangements For Applicants Who May Be Affected By The Tier 1 (General) Rules Changes

Tier 1 (General) of the points based system has been implemented in a phased manner:

- On 29 February 2008, Tier 1 (General) was introduced in the UK and the Immigration Rules for leave to remain as a highly skilled migrant were deleted;
- On 1 April 2008, Tier 1 (General) was introduced in India and the Immigration Rules for entry clearance as a highly skilled migrant in respect of applications made in India, were deleted;
- On 30 June 2008, Tier 1 (General) was introduced throughout the rest of the world, and the remaining Immigration Rules for entry clearance as a highly skilled migrant, were deleted.

The above changes have had the following impact:

Applications for highly skilled migrant programme (HSMP) approval letters

- In-country applications for HSMP approval letters made on or before 28 February 2008 will be processed;
- In-country applications for HSMP approval letters made on or after 29 February 2008 will not be processed and will be returned;
- Applications for HSMP approval letters, from India, made on or before 31 March 2008 will be processed;
- Applications for HSMP approval letters, from India, made on or after 1 April 2008 will not be processed and will be returned;
- Applications for HSMP approval letters, from any country other than India or the United Kingdom, on or before 29 June 2008 will be processed;
- Applications for HSMP approval letters made on or after 30 June 2008 will not be processed and will be returned.

Transitional arrangements for applicants under Tier 1 (General) with a valid Highly Skilled Migrant Programme (HSMP) approval letter

Arrangements have been put in place for individuals who:

- On 29 February 2008 have already applied for/obtained an HSMP approval letter but have yet to apply for leave to remain as a highly skilled migrant;

Applicants who have a valid HSMP approval letter and apply under these arrangements will not need to complete the 'Attributes' or the English language sections of the application form. Points for attributes and for English language will be awarded automatically on the strength of the valid HSMP approval letter.

Such applicants must however continue to complete all other appropriate sections of the relevant application form, including the Maintenance (funds) section of the form.

Such applicants will be charged a reduced Tier 1 (General) fee for their application.

Please note that HSMP approval letters are valid for a period of six months from the date of issue.