



Home Office

**UK Border
Agency**

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

TIER 1
(ENTREPRENEUR)

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 (Entrepreneur) of the points based system. Please note that it reflects policy at the time of publication and is subject to change. For the purpose of these guidance notes, the terms 'we', 'us' and 'our' refer to the UK Border Agency. It should be read in conjunction with the relevant paragraphs of the Immigration Rules.
2. An applicant making an application from outside the United Kingdom for entry clearance should go to the Visa Services website (formerly known as UK Visas) at www.ukvisas.gov.uk/en/howtoapply/vafs, where he/she can find the forms and more information on how to fill them in.
3. An applicant making an application from inside the United Kingdom for an initial grant of leave or an extension of his/her existing leave under Tier 1 (Entrepreneur) should go to our website to find the application form at www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier1entrepreneur
4. Applicants in all the points based system categories will be subject to General Grounds for Refusal. This means that even if the applicant qualifies under the specific category of the Rules under which he/she is applying to come here, there may be other reasons (such as his/her previous immigration history) that may lead to the application being refused. Further information on General Grounds for Refusal is available on our website at www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/general-grounds-refusing/
5. 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 Where you travel prior to a decision being reached on your application, your application will be treated as being withdrawn in accordance with Paragraph 34J of the Immigration Rules.
6. 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

7. We have a points based calculator that enables an applicant to self-assess whether his/her qualification is likely to score enough points for his/her English language ability for the application to succeed.
8. The points based calculator is on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>
9. An applicant can enter details of his/her English language qualification
10. The points based calculator will provide an estimate of the score.
11. 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

12. 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.
13. 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.
14. Any documentary evidence that the applicant provides must be the original (not a copy) unless we say otherwise.
15. 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.
16. 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

17. 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.
18. We will ask for a variety of verifiable documents to enable us to consider the application.
19. 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.

20. 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

21. 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.

22. 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.

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

Reasonable doubt

24. 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

25. 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

26. 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

27. 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.
28. 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

29. 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

30. 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

31. 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

32. We will use a standard form to record the results of our enquiries, to ensure that we record any feedback consistently.
33. 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.
34. 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.
35. Our compliance team may visit the applicant's employer or educational institution (if the applicant is a student) before we make a decision on the application.

Additional evidence for sponsored students

36. For the purposes of this section of the guidance, 'sponsored' means 'wholly supported by an award that covers both fees and living costs'.
37. An applicant who has had permission to be in the United Kingdom in one of the following categories, within the last 12 months, may have been sponsored in his/her studies by a Government or an international scholarship agency:
 - Student; or
 - Tier 4; or
 - student nurse; or
 - student re-sitting an examination; or
 - student writing up a thesis; or
 - postgraduate doctor or dentist.
38. 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.
39. 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.
40. 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.
41. 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>

Administrative review (entry clearance applications only)

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

Appeal Rights (in-country applications)

43. 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

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

For applications made in the UK:

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

For applications made outside the UK:

45. 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.

Tier 1 (Entrepreneur) Overview of Terms and Conditions

46. The following table explains some of the key features of Tier 1 (Entrepreneur). Full details of the requirements are at paragraph 245D to 245DF of the Immigration Rules.

Description of category:	The Tier 1 (Entrepreneur) category is for those investing in the United Kingdom by setting up or taking over, and being actively involved in the running of one or more businesses in the United Kingdom.
Length of grant of leave:	
Entry clearance	Three years plus four months
Leave to remain where previous grant of leave was not as a Tier 1 (Entrepreneur)	Three years
Leave to remain where previous grant of leave was as a 1 (Entrepreneur)	Two years

Qualifying for indefinite leave to remain

Full requirements for a grant of ILR under Tier 1 (Entrepreneur) may be found at paragraph 245DF of the Immigration Rules. The applicant must have spent the most recent period with permission to stay as a Tier 1 (Entrepreneur) migrant.

The rest of this period may be made up of permission to stay as a Tier 1 (Entrepreneur) migrant, or under the Business Person or Innovator categories.

<p>Switching into the Tier 1 (Entrepreneur) route</p>	<p>Switching (moving while in the United Kingdom from one immigration category to another) is allowed for applicants currently here with permission to stay as:</p> <ul style="list-style-type: none"> • a highly skilled migrant; • a Tier 1 (General) migrant; • a Tier 1 (Investor) migrant; • a Tier 1 (Post-Study Work) migrant; • a business person; • an innovator; • a student; • a student nurse; • a student re-sitting an examination; • a student writing up a thesis; • a work permit holder; • a postgraduate doctor or dentist; • a self employed lawyer; • a writer, composer or artist; • an investor; • a participant in the International Graduates Scheme (or its predecessor, the Science & Engineering Graduate Scheme); • a participant in the Fresh Talent: Working in Scotland Scheme; • a Tier 2 migrant; • a Tier 4 migrant; or • a Prospective Entrepreneur.
<p>Applicants must meet the following conditions:</p>	<p>Entry clearance or leave to remain under this route will be subject to the following conditions:</p> <ol style="list-style-type: none"> a) no recourse to public funds (which means the migrant will not be able to claim most benefits paid by the state); b) registration with the police, if this is required by paragraph 326 of the Immigration Rules, and c) no employment other than working for the business or businesses that the applicant has established, joined or taken over. d) No employment as a professional sports person (including as a sports coach).

47. All applicants wanting to travel to the United Kingdom under Tier 1 (Entrepreneur) of the points based system will need prior entry clearance.
48. We encourage applications for further leave to remain in the UK 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.

Tier 1 (Entrepreneur) - Points Scoring

Points scoring requirements

49. In order to obtain entry clearance or leave to remain within Tier 1 (Entrepreneur) an applicant must score enough points and send supporting evidence where appropriate.
50. Under Tier 1 (Entrepreneur), an applicant must score:
- at least 75 points for attributes (Appendix A of the Immigration Rules);
 - 10 points for English language (Appendix B of the Immigration Rules); and
 - 10 points for maintenance (funds) (Appendix C of the Immigration Rules)

Applications for initial entry

51. Points available for initial entrants under Tier 1 (Entrepreneur) are in the table below. This table applies to all applicants seeking:
- entry clearance in this category; and
 - further leave to remain in the United Kingdom in this category when their previous permission to stay was given under a category **other than** Tier 1 (Entrepreneur) or one of the former Business Person or Innovator categories.

Attributes: pass mark = 75 Points	Points
(a) The applicant has access to not less than £200,000, or	25
(b) The applicant has access to not less than £50,000 from:	
(i) one or more registered venture capital firms regulated by the Financial Services Authority,	
(ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website, or	
(iii) one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business.	
The money is held in one or more regulated financial institutions	25
The money is disposable in the United Kingdom	25

English Language: pass mark = 10	
Evidence to prove that the applicant speaks English to the required standard and meets the requirements explained in this guidance.	10
Maintenance: pass mark = 10	
A certain amount of funds to support the migrant in the United Kingdom.	10

Please see the relevant section below for more details.

Applications to extend permission to stay

52. Points available for applicants seeking to extend their permission to stay in the United Kingdom under Tier 1 (Entrepreneur) are in the table below. This table applies to:

- all applicants whose previous permission to stay was given under Tier 1 (Entrepreneur) or under one of the former Business Person or Innovator categories

Attributes: pass mark = 75 points	
Points available	
A The applicant has invested, or had invested on his behalf, not less than £200,000 (or £50,000 if, in his last grant of leave, he/she was awarded points for funds of £50,000 from: one or more venture capital firms regulated by the Financial Services Authority; one or more UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade & Investment website; or one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business; in cash directly into one or more businesses in the UK.	20
<p>B. i) The applicant has:</p> <ul style="list-style-type: none"> • registered with HM Revenue & Customs as self-employed; or • registered a new business in which he is a director; or • registered as a director of an existing business. <p>Where the applicant's last grant of entry clearance, leave to enter or leave to remain was as a Tier 1 (Entrepreneur) migrant, one of the above conditions must have been met within six months of the specified date. The specified date being either:</p> <ul style="list-style-type: none"> • The date of the applicant's entry to the UK, in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is evidence to establish the applicant's date of entry to the UK; or • The date of the grant of entry clearance to the applicant, in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is no evidence to establish the applicant's date of entry to the UK; or • The date of the grant of leave to remain to the applicant, in any other case. <p>This does not apply where the applicant's last grant of leave prior to the grant of leave that he currently has was as a Tier 1 (Entrepreneur) Migrant, a Business person or an Innovator.</p>	20

<p>C. The applicant is engaged in business activity at the time of his application to extend their permission to stay and provides the specified evidence to show that on a date no earlier than three months prior to the date of application, the applicant was:</p> <p>(a) registered with HM Revenue and Customs as self-employed, or</p> <p>(b) registered a new business in which he is a director, or</p> <p>(c) registered as a director of an existing business.</p>	15
<p>D. The applicant has:</p> <ul style="list-style-type: none"> • established a new business or businesses that has/have created the equivalent of at least two new full-time jobs for persons settled in the United Kingdom; <p>OR</p> <ul style="list-style-type: none"> • taken over or invested in an existing business or businesses and his services or investment have resulted in a net increase in the employment provided by the business or businesses for persons settled in the UK by creating the equivalent of at least two new full time jobs for persons settled in the UK. <p>Where the applicant's last grant of entry clearance or leave was as a Tier 1 (Entrepreneur) migrant, the jobs must have existed for at least 12 months for the period for which the previous leave was granted.</p>	20
<p>English language: pass mark = 10</p>	
<p>Evidence to prove that the migrant speaks English to the required standard and meets the requirements explained in this guidance. Please see the relevant section below.</p>	10
<p>Maintenance: pass mark = 10</p>	
<p>A certain amount of funds to support the migrant in the United Kingdom. Please see the relevant section below</p>	10

All applications

53. Where the applicant meets the requirements above by scoring enough points, and meets all other requirements of the Immigration Rules, he/she will be eligible for permission to stay under Tier 1 (Entrepreneur).

Attributes (Initial)

Applications for initial entry

Points scoring assessment

54. For the application to be approved, the applicant must score at least 75 points for their attributes.

You will find explanations of some of the terms we use in Annex A.

Claiming points

55. For applications for initial entry, the following points can be awarded if the applicant can show, using the specified evidence, that:

- he/she has access to £200,000; or he/she has access to not less than £50,000 from:
 - (i) one or more registered venture capital firms regulated by the Financial Services Authority;
 - (ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website;
 - (iii) one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business; [25 points]; and
- the money is held in one or more regulated financial institutions [25 points]; and
- the money is disposable in the United Kingdom [25 points].

Applicant has access to £200,000

56. If the applicant has £200,000 of his/her own money available to make a fresh investment into business in the United Kingdom, he/she should supply documentary evidence of the money in his/her own name as specified below.

57. These investment funds can be shared by an entrepreneurial team of up to two people. Each member of the team may apply to come to the UK as a Tier 1 (Entrepreneur) using the same investment funds. A maximum of 2 people in an entrepreneurial team is allowed. Neither applicant must have previously been granted leave as a Tier 1 (Entrepreneur) Migrant on the basis of investment and/or business activity linked in this way with any applicant other than each other if the same funds are being relied on as in a previous application.

58. The applicant may include money made available by one or more other people (known as 'a third party or parties'). In this case the applicant must also provide a declaration, from every other contributor, that the money is available to the applicant or the business that they are running, together with confirmation from a legal representative that the declaration document is valid. If two applicants are applying using the same funds, each third party must confirm that the funds are available to both applicants. **The total amount available to the entrepreneurial team must be no less than £200,000.**

59. If the applicant is relying on money held by a husband, wife or partner, the husband, wife or partner will be regarded as a third party. In the case of an entrepreneurial team, one applicant can act as third party contributor of funds for the other.

The applicant has access to not less than £50,000 from:

(i) one or more registered venture capital firms regulated by the Financial Services Authority;

(ii) one or more UK entrepreneurial seed funding competitions which is listed as endorsed on the UK Trade & Investment website;

(iii) one or more UK Government Departments, and made available by the

Department(s) for the specific purpose of establishing or expanding a UK business

60. If the applicant has access to no less than £50,000 funds plus a letter from each venture capital firm; seed funding competition; or UK Government Department providing the funds, he/she can use these funds, together with confirmation of the investment funds, to claim points.
61. Funds from more than one of these sources of funding may be combined to form the investment funds of no less than £50,000.
62. Entrepreneurs may not mix their own funds with the funding from the venture capital firm/s, seed funding competitions and/or UK Government Department/s if they are using the provision to invest £50,000. If the entrepreneur wishes to mix such funding he/she will need to invest £200,000 into the UK business.
63. If this investment is confirmed as available to an entrepreneurial team of two people, each person may apply to come to the UK as a Tier 1 (Entrepreneur) using the same investment funds. A maximum of 2 people in an entrepreneurial team is allowed. In this case the date used for the date of investment for both extension applications will relate to the earliest application.
64. Only the specified sources of funding under this provision will be accepted. These are:

Registered venture capital firms regulated by the Financial Services Authority:

Venture Capital is defined on the Business Link website at www.businesslink.gov.uk.

Venture Capital firms must be regulated and listed as venture capital firms by the Financial Services Authority (FSA) to be considered for the award of points. The FSA website is at www.fsa.gov.uk

UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade & Investment website: The list of competitions that have been endorsed for this purpose and can be considered for the award of points is given on the UKTI website on www.ukti.gov.uk

UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business: Where a UK Government Department is providing all or some of the funds specifically for the purpose of setting up or expanding a business in the UK, the funding package can be considered for the award of points. Please see www.direct.gov.uk for information on UK Government Departments.

65. Evidence of the agreement with each body providing funds must be supplied, together with documentary evidence of the money available.

Money must be held in one or more regulated financial institutions

66. The financial institution or institutions that provide confirmation of the money available to the applicant must be regulated by the home regulator. The home regulator is an official financial regulatory body, in the country where the financial institution operates and the funds are located. This body must be appropriate to the type of financial transaction.
67. Money held in the United Kingdom must be held in an institution that is regulated by the Financial Services Authority (FSA).

Money must be disposable in the United Kingdom

68. If the money is not held in the United Kingdom, all of the investment funds required to qualify must be freely transferable to the United Kingdom and able to be converted to pounds sterling.
69. If the money is held overseas but in an institution that has a presence in the United Kingdom and is regulated by the FSA, then the institution already does business in the United Kingdom and we will not need any further evidence that the money can be transferred into the United Kingdom.
70. Applicants who rely on money held in an overseas institution that is not regulated by the FSA must provide confirmation that the money can be transferred into the United Kingdom. They can do this with a document from their bank or financial institution.

Documents we require

Evidence of funds

71. Paragraphs 245A and 46 of Appendix A of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are listed below. Applicants must provide the following document.

- i) A letter from each financial institution holding the applicant's funds, to confirm the **amount of money** available to the applicant, or the two applicants if they have formed an entrepreneurial team.

The total amount of available money must be either at least £200,000; or at least £50,000 if the applicant has funds from one or more venture capital firms regulated by the Financial Services Authority; UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade & Investment website; or one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business. If the money is held in several financial institutions, the applicant must supply a letter from each institution. If the money is not held in the United Kingdom, we will use the Oanda database (<http://www.oanda.com>) to convert the given amount of overseas money into pounds sterling. We will use the exchange rate that applies on the date of the application.

Each letter must:

- be an original document and not a copy;
- on the institution's official headed paper;
- have been issued by an authorised official of that institution; and
- have been produced within the three months immediately before the date of the application.

Each letter must also confirm each of the following details:

- that the institution is regulated by the appropriate body;
- the name of the applicant, or both applicants if they have formed a entrepreneurial team;
- the date of the document;
- the amount of money available from the applicant's own funds (if applicable) that are held in that institution;
- the amount of money available to the applicant, or the business that they are running, from any third party (if applicable) that are held in that institution;

- the name of each third party and their contact details. These must include their full address including postal code, landline phone number and any email address;
- that if the money is not in an institution regulated by the FSA, the money can be transferred into the United Kingdom.

The letter should be in English, or accompanied by a certified translation from a professional translator.

A template is included at the end of this guidance (document 1) for the convenience of applicants who wish to use it.

Additional evidence for third-party funding (including funds from a venture capital firm; seed funding competition; or UK Government Department)

72. Third parties (other contributors of money) may include family members, as well as other investors or corporate bodies.

If the applicant is relying on third-party funding, he/she must also supply each of the following documents:

- ii) A declaration from every third party that they have made the money available for the applicant to invest in a business in the United Kingdom

The suggested format for the declaration is:

- a letter showing the names of the third party and the applicant (where the applicant is part of an entrepreneurial team sharing investment funds both names must be shown);
- the date of the letter;
- the signatures of the third party and applicant (where the applicant is part of an entrepreneurial team sharing investment funds both entrepreneurs must sign);
- the amount of money available to the applicant/s from that third party in pounds sterling; and
- the relationship/s of the third party/parties to the applicant/s.
- If applicable, confirmation of whether this body is an FSA-registered venture capital firm, in the form of a document confirming the award and the amount of money, and including the FSA registration number that the firm's permission to operate as a venture capital firm is listed as permitted under, and/or

a document confirming that the applicant has been awarded money from one or more UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade & Investment website, together with the amount of the award and naming the winner/s, including the name of the applicant, and/or

a document where it is confirmed that the applicant has been awarded money from one or more UK Government Departments, made available by the Department(s) for the specific purpose of establishing or expanding a UK business, and the amount.

- This declaration must be an original document and not a copy.
- The applicant must be able to have access to and dispose of the money freely in the UK. Where the applicant is part of an entrepreneurial team sharing investment funds both entrepreneurs must be able to have equal access to and dispose of the money in the UK.

A template is included at the end of this guidance for the convenience of applicants who wish to use it (document 2).

And

- iii) A letter from a legal representative confirming the validity of signatures on each third-party declaration provided.

This must confirm that the letter or letters of permission from the third party or parties contain the signatures of the people stated.

This can be a single letter covering all third-party permissions, or several letters from several legal representatives.

This confirmation letter must be an original document and not a copy.

The confirmation must come from a legal representative capable of providing the information. This means it must be from a legal representative permitted to practise in the country where the third party or money is.

The letter must clearly show the following:

- the name of the legal representative confirming the details;
- the registration or authority of the legal representative to practise legally in the country in which the permission or permissions was/were given;
- the date of the confirmation letter;
- the names of the applicant/s and third party;
- that the letter from the third party is signed and valid;
- the number of the third party's identity document (for example a passport or national identity card), the place of issue and dates of issue and expiry.

Attributes (Extension)

Applications to extend permission to stay

You will find explanations of some of the terms we use in Annex A.

Points scoring assessment

73. In order for the application to be approved the applicant must score at least 75 points for their attributes.

Claiming points

Section A

The applicant has invested, or had invested on his behalf, not less than £200,000 (or £50,000 if, in his last grant of leave, he/she was awarded points for funds of £50,000 from: one or more venture capital firms regulated by the Financial Services Authority; one or more UK entrepreneurial seed funding competitions listed as endorsed on the UK Trade & Investment website; or one or more UK Government Departments, and made available by the Department(s) for the specific purpose of establishing or expanding a UK business; in cash directly into one or more businesses in the UK) [20 points]

74. The applicant must show that either the full amount of £200,000 or of £50,000 if appropriate in cash has already been invested in business in the United Kingdom.

75. If the applicant entered the Tier 1 (Entrepreneur) route as part of an entrepreneurial team, both people can use the same evidence of investment in the business or businesses, and must have equal level of control over the funds and business or businesses. Neither applicant must have previously been granted leave as a Tier 1 (Entrepreneur) Migrant on the basis of investment and/or business activity linked in this way with any applicant other than each other if the same funds are being relied on as in a previous application.

76. We recognise that, as an entrepreneur, the applicant may have moved on to other activities and no longer be involved in the business or businesses in which he/she initially invested, but we still require this evidence.

The investment should not:

- include the value of any residential accommodation or property development, or property management; or
- be in the form of a director's loan, unless it is unsecured and is subordinated in favour of the third-party creditors.

77. If the applicant has bought property which includes residential accommodation the value of this part of the property will not be counted towards the investment. The value of this part of the property should be deducted from the amount of the business investment. The applicant must provide an estimate of the value of the living accommodation if it is part of the premises also used for the business, from a surveyor who is a member of the Royal Institution of Chartered Surveyors (RICS). This valuation must be produced in the three months prior to the date of application. For more information on membership of RICS please see www.rics.org

Documents we require

78. Paragraphs 245AA and 46 of Appendix A of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are listed below. Applicants must provide as many of these specified documents as necessary to establish the full amount.

i) Audited accounts

Registered companies that are required to produce audited accounts must do so. For information on who needs to produce these accounts please refer to the Companies House website on <http://www.companieshouse.gov.uk/about/gbhtml/gba3.shtml>

These accounts should clearly show the name of the accountant and the date. The accountant must be a member of a recognised United Kingdom supervisory body. If he/she is not, we will not award any points for this item of evidence.

ii) Unaudited accounts and an accountant's certificate of confirmation

Businesses that are not required to produce audited accounts must provide unaudited accounts, sometimes called management accounts, together with a certificate of confirmation from a suitably regulated accountant.

The accountant must be a member of a recognised United Kingdom supervisory body. If he/she is not, we will not award any points for this item of evidence.

Audited accounts, or management accounts accompanied by an accountant's certificate, must show how much the applicant has invested in the business.

iii) Director's loan

If the applicant has made the investment in the form of a director's loan, he/she must provide a legal agreement, between the applicant (in the name that appears on the application) and the company.

This agreement should show:

- the terms of the loan;
- any interest that is payable;
- the period of the loan; and
- that the loan is unsecured and subordinated in favour of third-party creditors.

If it is not clear from the information provided that the loan is unsecured and subordinated in favour of third-party creditors, we will not accept the loan for the award of points.

Evidence of the United Kingdom business

79. For each business an applicant relies on to claim points, he/she must supply the appropriate evidence from the lists below to prove that the business that has benefited from his/her cash investment is a United Kingdom business. One piece of evidence from rows 1, 2 and 3 in the table should be provided for each business or company. The required evidence differs depending on whether the applicant is self-employed or a director of a company.

	Type of business	Self-employed applicants	Directors of companies
1.	Business premises in the United Kingdom	Not all self-employed applicants will have a business office. For an applicant with no business premises we will use the applicant's registration with HM Revenue and Customs to show that the business is based in the UK	Printout of a Companies House document showing the address of the registered office, or head office if it has no registered office, and the name of the applicant, as it appears on the application form, as a director.
2.	Business has a United Kingdom bank account Note: Applicants whose initial grant of leave was made under the Business Person or Innovator category do not need to meet this requirement.	a) Personal bank statement showing transactions for the applicant's business b) Business bank statement c) Letter from a United Kingdom bank confirming that the applicant has a business and acts through a bank.	a) Company bank statement showing that the company has a United Kingdom bank account; or b) Letter from a United Kingdom bank confirming that the company has a bank account.
3.	Business must be subject to United Kingdom taxation Note: Applicants whose initial grant of leave was made under the Business Person or Innovator category do not need to meet this requirement.	The applicant must be registered as self-employed for National Insurance assessment. Applicants must supply one of the following: a) the welcome letter from HM Revenue & Customs; b) the Small Earnings Exception certificate; c) a copy of the quarterly National Insurance bill from HM Revenue & Customs; or d) a copy of the applicant's bank account showing that National Insurance is taken by HM Revenue & Customs by direct debit.	Business must be registered for corporation tax with HM Revenue & Customs. Applicants must supply either: a) their copy of form CT41G from HM Revenue & Customs This must be completed and show the date of registration of the company and the unique reference number; or b) a completed HM Revenue & Customs tax return document showing the tax reference number for the company. This can be either the company short return form or the company tax return form. If the reporting is done online the applicant should provide a printout of the form.

Section B

Within six months of the specified date the Tier 1 (Entrepreneur) applicant has registered as self-employed with HM Revenue & Customs, registered a new company in which he/she is a Director, or registered as a Director of an existing company. [20 points]

80. Applicants whose previous permission to stay was made under Tier 1 (Entrepreneur) must meet the requirement. The applicant will have their leave as a Tier 1 (Entrepreneur) curtailed if found not to have fulfilled this requirement within six months of the specified date.
81. This requirement must be met within six months of the specified date. If the applicant wishes their specified date to be the date they entered the UK they must provide evidence to establish this date. Where evidence is not available the six months will be calculated from the date the applicant was granted Entry Clearance or leave to enter the category. Evidence we will accept includes: Passport containing the Visa stamped on entry to the UK; Flight Tickets and Boarding Card. Where the applicant can not provide either of these pieces of evidence they can supply other documents for consideration which prove the date they entered the UK.
82. Where the applicant's previous permission to stay was given as part of an entrepreneurial team, and the other person is also applying to this route, we will use the specified date from the earlier application for both extension applications.
83. Applicants whose previous permission to stay was given under one of the former Business Person or Innovator categories will not need to show that they registered as self-employed or as a Director within six months of entering the route. Instead we will award these points if the applicant can show that they are registered at the time of the application to extend their permission to stay. Applicants should tick the box on the application form if they wish to claim these points. We will award these 20 points where the applicant meets the requirements of section C below.

Documents we require

84. Paragraphs 245AA and 46 of Appendix A of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are listed below. The applicant must provide one or more pieces of evidence from the following list, as appropriate to his/her circumstances.

Self-employed applicants

85. Self-employed applicants must provide one of the following:
- i) Original welcome letter from HM Revenue & Customs: Applicants who register as self-employed will have received a welcome letter from HM Revenue & Customs containing their unique taxpayer reference number. The original, dated document should be provided.
 - ii) Small Earnings Exemption Certificate from HM Revenue & Customs: Applicants who took advantage of the HM Revenue & Customs small earnings exception will have received a certificate. 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.

Therefore we will accept a letter or certificate that is dated up to eight calendar months from

the date when the applicant was previously given permission to stay in this category (as shown on the documents we sent giving approval of that permission to stay). For example, if the applicant's permission to stay is dated 1 May 2011, the letter or certificate must be dated on or before 30 September 2011.

Applicants who provide documents with a date more than eight calendar months from the date of their previous permission to stay in this category will not be awarded points in this section.

Director of a new or existing company

86. A director of a new or existing company must provide the following:

- i) Current Appointment Report from Companies House: This will list the Directors of a company and the dates of their appointment.

If the date that the applicant became a Director is more than eight months after the date when he/she was previously given permission to stay in this category (as shown on the stamp, or vignette, in his/her passport for those with entry clearance, or the approval document we sent for those applying from within the UK), we will not award any points to the applicant.

Section C

The applicant must be engaged in business activity at the time of his/her application to extend his/her permission to stay; and provide the specified evidence to show that on a date no earlier than three months prior to the date of application he/she was registered as self-employed, or registered as a director. [15 points]

87. Although the applicant does not need to be engaged in the business in which he/she was originally working when he/she first entered the Entrepreneur category, he/she must still be engaged in business when making his/her application for an extension.
88. An applicant may change from being self-employed to being a Director, or from Director to self-employed, as long as he/she is engaging in business in the United Kingdom as one or the other.
89. The applicant must provide evidence that he/she is either a self-employed business person, or a Director of a company, dated within 3 months of making the application to extend his/her permission to stay as an entrepreneur.
90. An applicant may choose which evidence to supply if he/she has acted in both capacities, but we will only award points for one registration.

Documents we require

91. Paragraphs 245A and 46 of Appendix A of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are listed below.

Self-employed applicants

92. Applicants who are self-employed at the time of applying for the extension must provide evidence that they are paying Class 2 National Insurance contributions at the time of the application. Some applicants will also pay Class 4 National Insurance, but we only need to see evidence of Class 2 payments.
93. National Insurance contributions may be paid by quarterly bill or direct debit, or the applicant may have applied for a small earnings exception certificate.

94. Applicants must provide one of the following documents, according to their individual circumstances.

If the applicant's National Insurance is paid by quarterly bill:

- a) The applicant must provide the bill from the quarter immediately before the application. This must be an original document and not a copy.

If the applicant's is paid by direct debit:

- b) 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.

If the applicant has very low earnings and has applied for the small earnings exception:

- c) The applicant should provide an original small earnings exception certificate issued by HM Revenue & Customs for the most recent return date.

Directors

95. Applicants who are Directors at the time of their application must provide:

- i) A Current Appointment Report from Companies House: This report will list the Directors of a company and the dates of their appointment.

The applicant must obtain a printout of the Current Appointment Report from Companies House (this will require paying a fee to Companies House).

The date of this document should be within the three months immediately before the date of the extension application.

This report must show that the applicant named in the application is the Director of a business that is actively trading and not struck-off, dissolved or in liquidation on the date that the printout was produced.

96. Note that Directors who are on the list of disqualified Directors provided by Companies House will not be awarded points, as they are not able to continue as Directors in the United Kingdom. We will check this list before awarding points. You can see the list of disqualified Directors on the Companies House website: <http://www.companieshouse.gov.uk/ddir/>

Applicants whose previous permission to stay was given under the Business person or Innovator categories

97. An applicant whose previous permission to stay was given under the Business person or Innovator categories in place before we introduced the Entrepreneur category may not be able to provide a printout of the Current Appointment Report at the time of their application, or may not have retained the evidence that they are paying Class 2 National Insurance contributions.

98. If such an applicant chooses to provide evidence of registration but does not have one of the specified documents when they need to make the application, he/she must indicate on the form that they need more time to obtain it. In these cases we will hold the application open for a period of up to 10 weeks, to allow the applicant time to obtain and send us the document separately. At the end of these 10 weeks, if the applicant has still not sent us

this document, we will consider the application on the basis of the information already submitted. This is likely to lead to us refusing the application.

Section D

Where the applicant has established new businesses, those businesses have, between them, created the equivalent of two new full-time paid jobs for at least two people who are settled in the United Kingdom and those jobs have existed for at least 12 months each;

or

where the applicant has taken over or invested in an existing businesses, his/her services and investment have resulted in the businesses providing, between them, the equivalent of two extra full-time jobs to people who are settled in the Kingdom and those jobs have existed for at least 12 months each. [20 points]

99. The creation of employment for settled workers shows the applicant's contribution to the United Kingdom economy.

100. The self-employed applicant must employ the worker directly. The applicant who is a Director of a business must show that his/her business has created two new posts. If the applicant entered the Tier 1 (Entrepreneur) route as part of an entrepreneurial team, both people can use the same evidence for creating employment.

101. We consider a 30-hour working week to be full-time. Part-time work can form part of the total number of hours of employment created.

The employment created:

- does not need to be in a single period. It can be made up of shorter periods;
- does not need to be for any particular number of workers. A single person may be employed for this time, or several people; and.
- must comply with the United Kingdom regulations, including the working time directive. You can find more information on the business link website: <http://www.businesslink.gov.uk/>

102. Only employees of the applicant's business will qualify. Self-employed contractors who are working for the applicant's business will not qualify for the award of points.

103. Applicants whose previous permission to stay in the United Kingdom was given under one of the former Business Person or Innovator categories are only required to show that they have created two full-time jobs. They do not need to show that the employment they have created has been for 30 hours a week or for a continuous 12-month period.

104. EXAMPLES: When considering whether to award points, we would view the following as acceptable employment created as a result of the applicant's entrepreneurial activities.

- The working hours of two part-time workers can be combined to add up to 30 hours a week or more and form the equivalent of one full-time post.
- A worker who is employed for part of a year and then leaves the job can be replaced by another worker so that the employment as a whole adds up to 12 months. However, if there is a gap between one worker leaving a post and another worker starting employment, the period when the post is not filled will not be counted in the 12 month period. Only periods during which a worker is employed in a post will qualify for the award of points.
- If a single worker is employed for 24 months, this employment will qualify for the award of points. The employment can also be made up of a six-month period for one worker

and an 18-month period for another.

- If four workers are employed for 26 weeks (six months) each their hours of employment may be added together for the award of points.

Documents we require

105. Paragraphs 245A and 46 of Appendix A of the Immigration Rules states that only specified documents will be accepted as evidence of this requirement. The specified documents are listed below. Applicants must provide at least one document from each section.

106. An applicant may use evidence from his/her activities as a self-employed entrepreneur, or as a director, or a combination of evidence from both roles towards evidence of having created posts.

Section 1: Copies of documents kept by the employer as evidence that the employee is a settled worker: Full guidance on employing legal workers can be found on our website at: <http://www.ukba.homeoffice.gov.uk/employers/preventingillegalworking/complyingwiththelaw/>

107. Only jobs that are given to people who are settled in the United Kingdom will qualify for the award of points.

108. Documents kept by an employer as evidence that an employee is a settled worker will often be the passport pages that contain the employee's personal details, and the page containing the United Kingdom Government stamp or endorsement, if appropriate. It may also be a copy of the worker's birth certificate.

Section 2: Documents required to determine the number of hours worked by an employee

109. To receive points for any periods of employment created, the applicant must have the appropriate evidence to support the claim for that employment.

110. Every employer must register with HM Revenue & Customs and notify HM Revenue & Customs of the employment, and the earnings, of their employees. We are not able to offer advice on registering as an employer or on the records that an employer must keep. You can find these on the HM Revenue & Customs website at www.hmrc.gov.uk or through the sponsorship and employers' helpline on 0845 7143 143.

111. HM Revenue & Customs requires that the employer retains a record of form P11 for at least three years. This form will show details of the earnings for the employee for each week that he/she worked for the employer.

112. Applicants must supply evidence to prove they created no less than two new full-time posts.

113. The applicant must provide the following documents for each worker as evidence of the employment created. (If the business employed workers before the applicant joined it, we will also require the extra documents detailed below):

- i) a duplicate of form P11, signed and dated by the applicant;
- ii) an original form P45 or P46: This must only be submitted in cases where the P11 does not show the start date for the worker; and
- iii) duplicate wage documents issued to the worker covering the full period of employment of the worker.

i) Form P11

114. The hours claimed for the award of points must be supported by a P11 entry.
115. Form P11 (as used to report to HM Revenue & Customs) is the employer's record of the earnings of each separate employee. These details will remain confidential and will be used to assess the applicant's claim for points. How we will assess the hours of work and the dates of employment from form P11 is explained in Annex A of this guidance.
116. The applicant must supply the hourly rate on his/her application form.
117. The applicant is required to provide any changes to the worker's hourly rate and the dates of this change. This enables the hours worked to be accurately calculated by dividing the earnings by the hourly rate.

ii) Form P45 and P46

118. If the date of the start of the employment is not shown in the P11 form, then the applicant must provide an original form P45 or form P46 for the worker. The worker must provide these to an employer on starting a job, and they contain the starting date of the employment.

iii) Pay statements (wage slips)

119. The applicant must also provide duplicate pay statement documents, often known as pay slips or wage slips, issued to the workers for whom points are being claimed. These must cover the full period of the employment for which points are being claimed.

Hourly rate

120. For the purposes of the extension application the applicant is also required to state the hourly rate for each employee used to claim points. This will enable us to calculate how many hours of work were created for each worker.

Assessing the date that the applicant joined the business

121. **For Directors of a company** the information from the Companies House Current Appointment Report will be used for two assessments. We will check that the applicant was a Director of the company that employed the worker. We will also check that the applicant was a Director of the specific employing company at the time that the settled worker was employed.
122. An applicant who joined an existing company as a Director and wishes to claim points for employment created may only submit hours of employment created after he/she joined the company.
123. Companies House will not have records for self-employed applicants. In this case we will cross-check the details of the business with the evidence the applicant provides to show that it was a United Kingdom business. This will include the dates that the applicant became self-employed, the names on the P11 and bank account, and the address of the business.
124. For new businesses, established after the migrant entered the United Kingdom, we will accept that the posts created are additional to jobs that existed in the United Kingdom

before the applicant arrived.

Extra documents we require for an applicant who has taken over or joined an existing business

125. Where the applicant has taken over or joined an existing business or businesses and wishes to show that he/she has created new posts in these businesses, they must provide evidence that these posts are a net increase in the employment in the United Kingdom.
126. If the applicant joined a business that employed workers before he/she joined it, he/she must provide extra evidence to support a claim for points for creating jobs in the business. In addition to the evidence specified for the number of hours of work created, the applicant must show that he/she has created new posts.
127. The applicant must provide payroll information in the form of:
- a duplicate form P35 document; and
 - an original accountant's letter verifying that the new posts have been created.

iv) Form P35

This is the annual return listing the names of employees of a business.

- If this is an online copy of the P35 return to HM Revenue & Customs, the copy must be signed and dated by the applicant.
 - For any businesses used as evidence for the creation of jobs, the applicant must provide the P35 for the year before the jobs were created and the year that the jobs were created.
 - This should show the net increase of two posts. This means that the total number of employees should have increased by the number of posts that the applicant claims to have created. If other posts have been lost, points will not be awarded unless the total number of posts has increased by the number claimed.
 - To assess the net creation of jobs, we will compare the number of workers before the applicant joined the business with the number of workers afterwards.
 - If the posts were created too recently for a P35 to have been produced, a draft should be supplied, signed and dated by the applicant.
128. Applicants whose previous permission to stay in the United Kingdom was made under one of the former Business Person or Innovator categories do not need to meet this requirement.

v) Accountant's letter verifying that the new posts have been created

129. This letter should verify that there has been a net creation of jobs, and confirm the number of posts. The accountant must be a member of one of the following professional bodies: 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); and the Association of Authorised Public Accountants (AAPA). The letter must be an original document and contain the following details:
- the name and contact details of the business;
 - the status of the applicant in the business;

- the number of posts created in the business;
- the dates of the employment created;
- the registration or permission of the accountant to operate in the United Kingdom;
- the date that the accountant created the letter on behalf of the applicant; and
- the accountant will confirm the content of the letter to us at our request.

English Language Requirement

English language assessment

130. 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.
131. Therefore, in order to qualify an applicant must provide the specified documents to show that they have a good knowledge of English.
132. 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

133. 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) or Tier 1 (Entrepreneur) and are applying for an extension leave to remain; or
 - as a business person (under Paragraphs 200-210 of the Immigration Rules); or
 - as a Highly Skilled Migrant Programme participant under the Immigration Rules which came into force on 5 December 2006 and they are applying for an extension of leave to remain under a Tier 1 category.
134. Applications from people who are unable to score 10 points in the section for English language requirements will be refused. Under Appendix B of the Immigration Rules, we will refuse these applications even if the applicant has attained the pass mark of 75 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

135. 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

136. 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

137. 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 has achieved at least CEFR level C1

in all four components (reading, writing, speaking and listening).

138. 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/entrepreneur/eligibility/pointsassessment/englishlanguage/>
139. 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/>
140. 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 (in country applications only)

141. Some people applying for leave to remain under Tier 1 may need to make their application before they have taken, or received the results of, an English language test.
142. 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**
143. Once the applicant has sat the test and received the results he/she must provide the certificate within five working days.
144. When the applicant provides an English language test certificate, we will complete our assessment of the application.
145. 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.
146. 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

147. Only the following specified documents will be accepted as evidence of this requirement:
- i) Original test result certificate. The certificate must clearly show the:
- applicant's name;
 - qualification obtained; and

- date of the award.

Degree taught in English

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

149. The degree **must**:

- be recognised by National Academic Recognition Information Centre for the United Kingdom (UK NARIC) as equivalent to at least a United Kingdom 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.

150. 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.

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

152. 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

153. 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>
154. Where the points based calculator is unable to confirm these details, points will not be awarded for the qualification in question.
155. 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

156. 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, in which case the following should be sent

- ii) Original academic transcript.

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

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

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

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

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

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

158. In order to qualify for entry clearance, or 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:

- Applicants outside the United Kingdom seeking entry clearance must have at least £2,800 of personal savings which must have been held for a consecutive 90 day period before the date of application.
- 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 before the date of application.

Tier 1 (Entrepreneur) applicants may not use any moneys included in their £200,000 investment as evidence of maintenance funds.

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

159. 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.

160. 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.

161. 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.

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

162. 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.
163. 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.
164. 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.
165. 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.
166. 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.

167. 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 £2,800 or £800, as appropriate). 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 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 £2,800 or £800, as appropriate) 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 at least three months:

The letter from a bank or building society should show:

- the applicant's name;
- the account number;
- the date of the letter
- the financial institution's name and logo;
- the funds held in the applicant's account
- that the funds of £2,800 or £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 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 £2,800 or £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.

Tier 1 (Entrepreneurs) - Indefinite Leave to Remain

168. If an applicant wishes to apply for Indefinite Leave to Remain (Settlement) in the UK he/she can find the information needed for the application on the UK Border Agency website at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idichapter6a/>

Annex A - Glossary of Terms and Further Information

A business

A1. A business means an enterprise which is a sole trader; or a partnership; or a company registered in the United Kingdom.

Currency Conversion

A2. The exchange rate used for overseas currency will be a rate conversion made using the exchange rate shown on the OANDA website on the date the application was made.

A new investment is required

A3. The money used will only qualify for the award of points if it will be new investment in the United Kingdom. A new investment is one made within the 12 calendar months before the date of application.

A4. An applicant who has already legally established a business in the United Kingdom while here under a different immigration category must satisfy the full requirements for the Entrepreneur initial application before he/she can be considered for approval. This means that if the applicant made the investment in the business more than 12 months before applying to enter the category, he/she must make a further investment of £200,000.

Assets or possessions will not be accepted for the award of points

A5. Funds that the applicant claims are available but that have not been converted to money will not be accepted for the award of points. For example, this includes estimates of the money that will become available when assets are sold. This is because until the sale of these assets is complete, and money transferred to the seller, there is no guarantee that the estimated value of the assets will be realised.

Financial institutions

A6. For the purposes of this guidance, a financial institution is one that acts as an agent that provides financial services for its clients. Common types of financial institutions include banks, building societies, credit unions, stock brokerages and asset management firms. This is not intended to be an exhaustive list. Financial institutions are responsible for transferring funds from investors to companies in need of those funds. Financial institutions fall under financial regulation from a government authority.

Financial regulation

A7. Financial regulations are a form of control or supervision, which subjects financial institutions to local requirements, restrictions and guidelines, aiming to maintain the integrity of the financial system. This may be handled by either a government or non-government organization. In the United Kingdom, by law, most financial service firms must be authorised by the Financial Services Authority (FSA) to do business in the United Kingdom.

Financial markets and insurance activities are both regulated by the FSA in the United Kingdom, but this is not always the case. Some countries have several bodies. For example, in the United States control is federal.

The home regulator

A8. The home regulator is an official financial regulatory body, appropriate to the type of financial transaction, in the country of operation where the transaction was made.

Only money held in a regulated financial institution will be accepted for the award

of points

- A9.** The money must be held in one or more financial institutions (for example a bank or building society), each of which must be regulated by the appropriate regulator in the country where they are operating. In order for a firm to hold money on someone's behalf the financial institution must first be authorised by its home regulator and meet the minimum requirements to safeguard these funds. This activity is usually referred to as 'deposit taking'.

Money held in a financial institution that is not regulated by the home regulator will not be accepted for the award of points.

Confirmation that the financial institution is regulated by the home regulator

- A10.** We may seek to confirm that a financial institution is regulated by the home regulator. We may do this by accessing the appropriate website and/or by contacting the institution directly.
- A11.** We will access the Financial Services Authority (FSA) register at first, through its website at <http://www.fsa.gov.uk/Pages/register/>. Institutions are registered as 'firms' under the name of the institution or as 'individuals' if a person is the authorised body.

The FSA listing process

- A12.** Firms that have applied to the FSA for registration may not carry on regulated activities until their registration is complete. This may take three months or longer in some cases. Once the firm is authorised the website will be updated to contain the name of the firm within a day. For the purposes of this guidance we will only accept institutions that are already registered and listed on the website.

Overseas institutions not regulated by the FSA

- A13.** For overseas companies not registered with the FSA, we will use the information available from the Companies House list of overseas regulatory institutions under Worldwide registries at <http://www.companieshouse.gov.uk/links/introduction.shtml>.

Alternatively for overseas institutions not registered with the FSA, we may also use the International Organization of Securities Commissions (IOSCO) general membership lists at: <http://www.iosco.org/lists/index.cfm?section=general>

Ordinary, associate and affiliate members make up a very high percentage of all overseas financial regulatory bodies on this site. Enquirers searching for a regulatory body may need to look under all three membership categories. For example, Canada's regulatory bodies are listed under affiliate bodies.

Central banks may also have supervision over some financial markets. For a list of international central banks not registered with the FSA, we will use the list of central bank websites on the Bank for International Settlements website at http://www.bis.org/central_bank_hub_overview.htm.

A14. Overseas regulatory bodies appearing on any of these websites will be accepted as an appropriate regulatory body. Only overseas regulatory bodies appearing on the websites listed may be accepted for the purpose of this guidance. If an application relies on money held in a financial institution not regulated by one of these bodies, it will not be accepted for the award of points.

European Economic Area (EEA) financial institutions

A15. If the EEA firm is already operating in the United Kingdom it will be on the FSA register. If not, the firm must be registered for operations in the country in which it operates (see the lists of regulatory bodies on the IOSCO website under A13 above). Under what is termed 'passporting' agreements, an EEA firm can provide financial services in the United Kingdom if it is entitled to carry on an activity in another EEA state, but in this case the firm must still be regulated by the appropriate overseas authority.

Financial exchanges are not responsible for control.

A16. Financial exchanges are a form of market for the financial industry, and may be in charge of some of the listing and disclosure requirements for traded financial products on stock markets. These exchanges are not likely, however, to operate any form of control or monitoring of firms. Therefore listing on a financial exchange cannot be accepted as an appropriate form of regulation of an overseas firm. For example if a bank is listed on a recognised stock exchange, this is no guarantee that the bank is properly regulated and authorised. We will need to seek evidence of registration from an authority on one of the websites listed above.

Accounting periods

A17. You can find more information on accounting periods at www.businesslink.gov.uk

Recognised United Kingdom supervisory bodies for accountants

A18. 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); and the Association of Authorised Public Accountants (AAPA).

Types of investment accepted for the award of points

A19. Direct cash investment In order to ensure that the money is used by the business, the applicant should provide the accounts of that business for assessment. These accounts must show the investment in money made directly by the applicant, in the applicant's own name.

Share capital This only applies to migrants with a company structure that can raise money through shares.

The applicant must give us business accounts showing the shareholders in the business. The amount and value of the shares owned by the applicant (in the name as it appears on the application) must be shown. If the value of the applicant's share capital is not shown in the accounts, then share certificates should be submitted as documentary evidence.

Director's loan This only applies to migrants who become directors of a company. A director's loan to the company will be considered for the award of points as long as it is unsecured and subordinated in favour of third-party creditors.

Unsecured loan For the purposes of this guidance an unsecured loan is where the applicant lends money to the business that is not secured by property or assets that become subject to seizure on default

Third-party creditors Third-party creditors are those individuals or companies that the business owes money to, excluding the applicant.

Types of investment excluded from the award of points

A20. A loan to the business will not be accepted The investment should not be in the form of a Director's loan, unless it is unsecured and subordinated in favour of third-party creditors. We will use any legal agreement between the applicant and the company to assess this. If no legal agreement is provided or if the investment appears to be in the form of a loan which does not meet these conditions, no points will be awarded for this investment.

Property development and property management are excluded from the types of investment accepted for the award of points Investment in property development and management will not be taken into account for the award of points. This is because it is not the intention of this category to allow migrants to set up as landlords and let properties in the United Kingdom. The intention is to promote United Kingdom competitiveness in business and to focus the investment on promoting business beneficial to the United Kingdom economy.

A person involved in **property development** makes improvements of some kind to immovable property (real estate), which increases its value. A person involved in **property management** is charged with operating immovable property (real estate) for a fee, on behalf of the owner. The restrictions on investment in property development and property management are intended to ensure that the Entrepreneur route is used to promote United Kingdom competitiveness in business.

There is no objection, however, to Entrepreneurs investing in companies that are mainly involved in construction.

Money should be fully used in the business and not held in the business bank account in order to qualify for the award of points

Money deposited in a bank account, even if it is in a United Kingdom business bank account, is not counted as investment in business. The money should be used in the business to encourage growth or expansion, to improve services or products and to ensure the business is profitable.

What is a business in the United Kingdom?

A21. For the purposes of this application, an applicant must have made a capital investment in a business operating within the United Kingdom economy and subject to United Kingdom taxation. We will consider a United Kingdom business to be one that:

- has its business premises (unless a self-employed applicant does not have a premises) or its registered office or, if it has no registered office, its head office (for a Director of a company) in the United Kingdom;
- has a United Kingdom bank account showing transactions for the business that are current (this may be either a business bank account, or a personal bank account for sole traders); and
- is subject to United Kingdom taxation.

Any business that benefits from the applicant's £200,000 (or £50,000) investment used for the purposes of claiming points for this application must be this type of business.

Multinational companies that are registered as United Kingdom companies with either a registered office or head office in the United Kingdom are acceptable.

Registration as self-employed

A22. A person setting up as self-employed must register as such with HM Revenue & Customs within six months of starting up. For more information on the legal requirements see the section Legal structures – the basics at www.businesslink.gov.uk

Current appointment report from Companies House

A23. The applicant must obtain the report from Companies House, for a fee, and send it with his/her application. This document shows when the applicant became a director of a company. This will be the same document for a new business as for those becoming directors of an existing business. For more information on registration with Companies House, please contact Companies House <http://www.companieshouse.gov.uk/contact/contactUs.shtml>. For information on obtaining the current appointment report please see <http://wck2.companieshouse.gov.uk/8797bc4bf2581885f3ac0d60c81389aa/wcframe?name=moreCompanyInfo>

Franchises

A24. Businesses that are set up as franchises can be accepted for the award of points. The applicant will either be self-employed or employed, depending on how he/she decides to structure the franchise business, and should provide the appropriate evidence.

New employment created

A25. The jobs created must meet United Kingdom legislation. We are not able to offer applicants advice on compliance with employment legislation. Applicants should see Employing people at www.businesslink.gov.uk. Other information is available from HM Revenue & Customs at www.hmrc.gov.uk or from its new employer helpline on 0845 607 0143, Monday to Friday 0800 – 2000 or Saturday and Sunday 0800 – 1700, or textphone 0845 602 1380.

What is an employee?

A26. Not everyone who works for someone else is an employee.

Applicants can claim points for employees who are:

- part-time and full-time workers; or
- workers under an employment contract.

However, applicants cannot claim points for a self-employed worker who is contracted to work for them. In this case the person will have a contract for service and will not be accepted for the award of points as an employee.

It is the applicant's responsibility to consider the status of employees, and advice on this should be sought from the HM Revenue & Customs website (<http://www.hmrc.gov.uk/employment-status/index.htm>) or from the Business Link website (www.businesslink.gov.uk). The HM Revenue & Customs employer helpline can also offer advice, on 0845 714 3143. Applicants should not contact us for advice on employee status.

What is a settled worker?

A27. Only jobs that are given to people with settled status in the United Kingdom will qualify for the award of points. Paragraph 6 of the Immigration Rules defines what we mean by "settled in the United Kingdom" This can be viewed on www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/introduction/

For the purposes of these guidance notes a 'settled worker' is a person who is:

- A national of the United Kingdom;
- A national of Austria, Belgium, Bulgaria*, Cyprus, the Czech Republic*, Denmark, Estonia*, Finland, France, Germany, Greece, Hungary*, Iceland, Republic of Ireland, Italy, Latvia*, Liechtenstein, Lithuania*, Luxembourg, Malta, the Netherlands, Norway, Poland*, Portugal, Romania*, Slovakia*, Slovenia*, Spain, Sweden or Switzerland who is exercising an EC Treaty Right in the UK;

*NB – Workers from the A8 States (the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, Slovenia) and the A2 States (Bulgaria and Romania), unless exempt from worker authorisation, must be registered on the appropriate scheme (WRS or BaRC respectively) in order to commence work;

- British overseas territories citizens except those from Sovereign Base Areas in Cyprus. Those included are Anguilla, Bermuda, British Antarctic Territory, British Virgin Islands, British Indian Ocean Islands, Cayman Islands, Falkland Islands and dependencies, Gibraltar, Montserrat, Pitcairn Islands, St. Helena and Dependencies and Turks and Caicos Islands);
- Commonwealth citizens who were allowed to enter or to remain in the United Kingdom on the basis that a grandparent was born here;
- Has settled status in the United Kingdom within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999, and the Nationality, Immigration and Asylum Act 2002.

Note that workers requiring approval to work in the United Kingdom, such as holders of an immigration employment document under the work permit arrangements, will not count towards the award of points even if they have permission to work for the applicant's business. Any holder of a letter of permission to work under Tier 1 of the points based system such as under the Tier 1 (General) category will not count for the award of points.

Evidence of settled worker status

A28. When the applicant or the applicant's business employs a worker for whom points will be claimed, the employer is responsible for checking that the worker is not an illegal worker. The employer is required to copy certain documents and keep them. These documents are listed in the Summary guidance for employers on preventing illegal working, which you can download from <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/>

Why is full-time work set at 30 hours a week?

A29. Posts which are less than 30 hours a week are regarded as part-time by the Department for Business, Innovation and Skills (BIS) and on the National Statistics Online records. Therefore we consider 30 hours a week to be the minimum number that qualifies as full-time.

HM Revenue & Customs registration forms

A30. Every employer must register with HM Revenue & Customs and notify it of the employment, and the earnings, of his/her employees. We are not able to offer advice on registering as an employer or on the records that an employer must keep. You can find this advice on the HM Revenue & Customs website on www.hmrc.gov.uk or from its employer helpline on 0845 714 3143.

HM Revenue & Customs requires an employer to keep the P11 for at least three years. This form will show details of the earnings for the employee for each week that he/she worked for the employer.

Applicants who employ more workers but do not use their employment to support their claim of points do not need to send information on those workers. We only need details of the employment created and used to claim points for this application.

How to assess hours of work from form P11

A31. The link below shows a copy of the P11 form on the HM Revenue & Customs website: <http://www.hmrc.gov.uk/forms/p11-example.pdf>

A32. The worker's salary is entered in the three columns titled 'Earnings details', columns 1a,

1b, and 1c. The amount is split for tax reasons, but the total amount of pay for each week can be calculated by adding columns 1a, 1b, and 1c.

A33. Columns 1f (Statutory Sick Pay), 1g (Statutory Maternity Pay), 1h (Statutory Paternity Pay) and 1i (Statutory Adoption Pay) can be taken into account in the same way as earnings, for employees who claiming these payments. Student Loan Deductions in column 1j will be ignored for the purposes of calculating the employee's earnings. Student loans are repaid by workers when their earnings reach a threshold. The deduction does not affect the amount that they have been paid by their employer and therefore does not form part of the assessment.

How to assess the dates of the employment from the P11

- A34.** In order to qualify for points the post must be created as a result of the applicant's contribution to the United Kingdom economy. The posts created by the applicant, or the applicant's business, must be new posts.
- A35.** Applicants joining an existing business must create posts as a result of their contribution. When awarding points, we will only accept evidence of posts created after the date that the applicant started work in a business.
- A36.** Form P11 provides evidence of the dates of employment of the worker. The applicant must supply a duplicate P11 document with the dates of starting employment. These are in box H at the top of the form.

Form P14 is not a specified document

A37. The employer's annual return is provided on form P14. This has not been specified as a required document because it forms part of an annual return from the employer, and may not be available for the date of the application. In addition, the P11 must be kept for three years by an employer whereas the P14 does not have to be kept. Therefore we have specified that form P11 is the most appropriate for assessment.

Pay statement (wage slip)

A38. The applicant must provide copies of pay statements, often known as pay slips or wage slips, that have been issued to the workers used to claim points. These must cover the full period for which the points are claimed. For more information on pay statements see www.businesslink.gov.uk. We cannot advise on employer obligations on pay statements. Applicants should contact the Department for Business, Innovation and Skills (www.bis.gov.uk) with any queries on legal requirements.

Legal representative

A39. This is a person who oversees the legal affairs of someone else. Examples include the executor or administrator of an estate and a court-appointed guardian of a child or incompetent person. We will accept a lawyer or a notary public as a legal representative.

Lawyer A professional person authorised to practice law, conduct lawsuits or give legal advice.

Notary public A public official whose main powers include administering oaths and confirming signatures.

What is notarisatio

A40. Notarisatio is the certification by a notary public that the signature appearing on a document is genuine. Notaries assess documents and confirm that copies are exact representations of the original. A notarisatio should include a notary's signature and an

official stamp.

What is the specified date?

A41. A Tier 1 (Entrepreneur) must have met the conditions of the category within six months (26 weeks) of either:

- The date of the applicant's entry to the UK (or the earliest applicant's entry in the case of entrepreneurial teams), in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is evidence to establish the applicant's date of entry to the UK; or
- The date of the grant of entry clearance to the applicant (or the earliest applicant's entry in the case of entrepreneurial teams), in the case of an applicant granted entry clearance as a Tier 1 (Entrepreneur) Migrant where there is no evidence to establish the applicant's date of entry to the UK; or
- The date of the grant of leave to remain to the applicant (or the earliest applicant's entry in the case of entrepreneurial teams), in any other case.

This does not apply where the applicant's last grant of leave prior to the grant of leave that he currently has was as a Tier 1 (Entrepreneur) Migrant, a Business Person or an Innovator.

Where the applicant has been found not to have fulfilled one or more of the following within six months of the specified date may have their leave curtailed:

- Registered with the HM Revenue and Customs as self-employed;
- Registered as a new business in which he is a director; or
- Registered as director of an existing business.

Entrepreneurial teams

A43. Two applicants may claim points for the same investment and business activity if they have formed an entrepreneurial team. In this case both applicants must have equal level of control over the investment funds and/or business(es) formed.

Both members of the entrepreneurial team must be shown by name in each other's applications, and in the evidence of funds.

Neither applicant must have previously been granted leave as a Tier 1 (Entrepreneur) Migrant on the basis of investment and/or business activity linked in this way with any applicant other than each other if the same funds are being relied on as in a previous application.

If the two members of the entrepreneurial team make their applications for permission to stay in the UK in this category on different dates, or are given permission to stay in this category on different dates, the specified dates for both members of the team will be taken as the same date which is the specified date for the earlier application.

Annex B - Administrative Review

(Entry clearance applications only)

1. What is Administrative Review?

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

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

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

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

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

3. Who conducts the Administrative

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

4. Who can apply for Administrative Review?

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

5. How does the applicant apply?

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

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

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

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

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

7. What if an application is submitted late?

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

If the Administrative Review request is late and the administrative reviewer decides not to perform the Administrative Review, the request notice will be returned to the applicant with a

letter explaining why it is not being accepted.

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

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

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

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

9. How long will the Administrative Review take?

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

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

10. What will the administrative reviewer look at?

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

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

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

11. How are Administrative Review decisions made?

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

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

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

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

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

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

12. Does Administrative Review cover General Grounds for Refusal?

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

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

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

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

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

13. Does Administrative Review cover verification?

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

14. What are the possible outcomes of Administrative Review?

There are three possible outcomes of Administrative Review:

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

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

Decision upheld and the reasons for refusal remain the same:

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

Decision upheld but with revised reasons for refusal:

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

Decision overturned and entry clearance to issue:

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

passport.

16. Limited Right of Appeal

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

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

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

Annex C - Templates

Document 1

Letter for AFI, this should be submitted as an original document, and not a copy, on the letter-headed paper of the financial institution

CONFIDENTIAL

For the attention of the UK Border Agency

In regards to the application of Mr/Mrs/Ms **[Name]** for Entrepreneur status in the United Kingdom:

I have the consent of **[name]** to share these findings with the Agency. I will confirm the contents of this letter to the Agency at their request.

[name/s] has £ available for investment in the United Kingdom on deposit with this financial institution.

On this date **[give date]**

The applicant has the following amount of money IN THEIR OWN NAME available for investment in a business in the United Kingdom [£] if applicable. Or, the applicant has agreed to form an entrepreneurial team with [name] and has the following amount of money IN THEIR OWN NAMES available for investment in a business in the United Kingdom [£] if applicable. If these funds are already in the United Kingdom, please give the date of entry to the United Kingdom [date of entry of money into the United Kingdom dd/mm/yyyy]

The applicant/s has/have the following amount of money available for investment in a business in the United Kingdom, held in this institution under the names of [please enter details in the table provided if applicable].

Name of third party contributor	Relationship to applicant or each applicant	Contact details	Amount of money from the third party available to the applicant or both applicants	If these funds are already in the United Kingdom, the date of entry to the United Kingdom must be given
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Name and address of Authorised Financial Institution:

This institution is regulated by the FSA **[state form of registration]**

Name and contact details of the Author of this document:

Signature of authorised person of the Authorised Financial Institution

Document 2

Declaration of availability of third party funds used for an application for Entrepreneur status. This must be an original document and not a copy.

CONFIDENTIAL

For the attention of the UK Border Agency

I agree that this letter may be shown to the UK Border Agency. I will confirm the contents of this letter at the request of the Agency.

In regards to the application/s of Mr/Mrs/Ms [applicant's name or names] for Entrepreneur status in the United Kingdom:

I [name] am the [state relationship] of [name] who has made an application for Entrepreneur status in the United Kingdom. I am willing to share this information with the UK Border Agency.

I have £ (please give amount in Pounds Sterling) and I will make it available to [name of applicant or applicants who have agreed to form an entrepreneurial team] or the business they run in the United Kingdom.

OR

I [name] represent [corporate body] which has £ (please give amount in pounds sterling) and will make it available to [name of applicant] or the business they run in the United Kingdom.

Contact details of third party, including: Full address including postal code Landline telephone number Email address if available. Third party's identity document number (e.g. passport or national identity card), place of issue and dates of issue and expiry

Signature of third party

Signature of applicant

Signature of both applicants who have agreed to form an entrepreneurial team (if applicable)

Date that the declaration was made [dd/mm/yyyy]

Extra information needed where the £50,000 investment provision is used;

For Venture Capital firms –the name and registration number that they are listed under with the FSA as permitted to operate as a venture capital firm and confirmation of the funding agreement;
or

For Seed funding Competition – confirmation that the competition is listed by the UK Trade and Industry and the name that it is listed under or

For UK Government Department funding made available for the specific purpose of establishing or expanding a UK business – confirmation that the Department is contributing funds directly to the applicant/s or applicant's business.