



Home Office

**UK Border
Agency**

**TIER 1
(ENTREPRENEUR)**
VERSION 04/2012

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

This guidance
is to be used
for applications
made on or after
6 April 2012

Contents

| | |
|---|----------|
| Introduction | 4 |
| General information on making an application | 4 |
| Self-assessment | 4 |
| Date of application | 4 |
| When should you apply | 4 |
| Verification and other checks | 5 |
| Outcome of the decision | 5 |
| Administrative review (entry clearance applications only) | 5 |
| Appeal Rights (in-country applications) | 5 |
| Change of circumstances | 5 |
| Documentary evidence | 6 |
| Additional evidence for sponsored students | 6 |
| Tier 1 (Entrepreneur) Overview of Terms and Conditions | 7 |
| Length of leave | 7 |
| Eligibility to apply in the UK | 7 |
| Conditions of stay | 8 |
| Tier 1 (Entrepreneur) - Points Scoring | 8 |
| Points scoring requirements | 8 |
| Attributes for initial entry | 8 |
| Attributes table for initial applications | 9 |
| Entrepreneur teams | 10 |
| Claiming points for attributes | 10 |
| Available funds - all applicants | 13 |

| | |
|---|-----------|
| Attributes for extension applications | 14 |
| Entrepreneur teams | 15 |
| Claiming points for attributes | 15 |
| Documents we require | 18 |
| Evidence of the amount of money available to invest | 18 |
| Additional evidence for third-party funding | 20 |
| Money that has been invested in business | 21 |
| Evidence of registration as self-employed or as a director –extension applications only | 23 |
| Evidence of current registration as self-employed or as a director | 24 |
| Evidence of graduate level occupation | 25 |
| Employment creation | 26 |
| English Language Requirement | 29 |
| English language assessment | 29 |
| National of a majority English speaking country | 29 |
| English language test | 30 |
| Degree taught in English | 31 |
| Maintenance (Funds) | 33 |
| Maintenance requirement – all applications | 33 |
| Tier 1 (Entrepreneurs) - Indefinite Leave to Remain | 36 |
| Annex A - Glossary of Terms and Further Information | 37 |
| Annex B - Administrative Review | 45 |
| Annex C - Verification and other checks | 49 |
| Annex D - Additional evidence for sponsored students | 51 |
| Annex E - Templates | 52 |

Introduction

1. The Tier 1 (Entrepreneur) category of the points based system 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 (UK).
2. This document provides guidance on Tier 1 (Entrepreneur) policy. It will be subject to change and should be read together with the relevant paragraphs of the Immigration Rules.
3. The section of the Immigration Rules titled General Grounds for Refusal will also apply to you. This means that your application may be refused for other reasons (such as your previous immigration history). Further information is available on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/modernised/general-grounds-refusing/>
4. In this document, 'we', 'us' and 'our' refer to the UK Border Agency. 'You' and 'your' refer to the person making the application.
5. When we refer to a grant of leave, we mean permission stay in the UK.
 - If you apply from overseas, you are applying for Entry Clearance.
 - If you apply from within the UK, you are applying for Further Leave to Remain.

General information on making an application

6. If you are applying from outside the UK you will need entry clearance to come to the UK as a Tier 1 (Entrepreneur). You should go to the website at <http://www.ukba.homeoffice.gov.uk/customs-travel/beforetravel/visas/applying/> for the form and more information on how to fill it in.
7. If you are applying from within the UK and have had leave in a different category, you are making an initial application to the Tier 1 (Entrepreneur) route and you must be able to switch categories. If you already have leave as a Tier 1 (Entrepreneur) you are making an extension application. You should go to our website to find the in-country application form at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier1entrepreneur> .

Self-assessment

8. We have an online calculator that helps you to assess whether your application is likely be successful, particularly whether your qualification is likely to meet the requirements for your English language ability. It will provide an estimate of the score for your English language section. The online calculator is on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>.
9. The results show the possible points you could score, but they do not guarantee the application will be successful. We make a decision after giving full consideration to your application and evidence.

Date of application

10. If you are outside the UK, the date of application is the date that you pay your application fee. 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.
11. If you are in the UK and your application form is sent by post, the date of application is the date of posting. If your application form is sent by courier, the date of application is the date it is delivered to the UK Border Agency.

When should you apply

12. You will need to send us documentary evidence, which may take you some time to collate. You

should check that you have everything needed before making your application. In some cases you must send us documents dating back some time.

13. If you are in the UK we encourage you to apply at least a month before your existing leave expires. If you apply much earlier than this you risk having a shortfall in leave if you choose to apply for settlement. This is because any further grant of leave is given from the date that we make the decision, not the date your leave expires.
14. You should not make plans to travel outside of the Common Travel Area whilst your application is under consideration. Where you request your passport back from us in order to 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.

Verification and other checks

15. We may want to check the supporting documents you send with your application. You must ensure that all the evidence comes from a source that can be clearly identified and that we can independently confirm it as being genuine. More information on verification is given in Annex C.

Outcome of the decision

16. We will notify you of the decision and return documents 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 that is large enough for your documents with your application.

Administrative review (entry clearance applications only)

17. If we refuse an application for entry clearance and you think that a mistake has been made, you can ask us to check our decision. This is known as an 'administrative review'. Full guidance on administrative reviews can be found at **Annex B**.

Appeal Rights (in-country applications)

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

Change of circumstances

19. If during your stay you wish to amend:

- Your contact details; or
- Details of your criminal convictions; or
- Your representative's details; or
- Your dependants details

you should fill out a change of circumstances form which is available on our website at <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/migrantchangeofcircumstanc2.pdf>

20. This form should be sent to:

UK Border Agency
Change of Circumstances Form
PO Box 3468
Sheffield
S3 8WA

21. We will confirm that we have noted your change of circumstances in a letter. You should keep this letter with the original documents from your application.

22. However, if your current grant of leave was made by means of a Biometric Residence Permit (BRP), you should not use the change of circumstances form to notify us of any of the following changes to your circumstances:

- Change of name
- Change of date of birth
- Change of nationality
- Change of gender
- Change of appearance

23. In these circumstances, you must make an application for a new BRP, using the application form BRP (RC). This can be obtained from the UK Border Agency website at: <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/196971/formicfn1020091.pdf>.

24. You should also use the BRP (RC) application form if you need to replace a BRP that has been lost, damaged or stolen.

Documentary evidence

25. You must provide all of the documents to support your application when you submit it. These documents must be originals (not copies) unless stated otherwise. We only accept the documents specified in this guidance in the Documentary Evidence section. We will not consider unrelated evidence when calculating the points score.

26. If you do not provide the specified documents, we will contact you to ask for them only when you have submitted:

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

In these circumstances we will contact you or your representative in writing, and the evidence must be received by the UK Border Agency processing centres within 7 working days. If not, we may refuse your application. We will not ask for further information where none of the information has been submitted (for example an English language certificate is missing); or where a correction of minor errors or omissions will not lead to an approval because the application will fail for other reasons.

Additional evidence for sponsored students

27. If you have been studying in the UK and have been sponsored in your studies by a Government or international scholarship agency you must provide us the sponsor's consent for

you to stay in the UK. Please see Annex D for a further explanation.

Tier 1 (Entrepreneur) Overview of Terms and Conditions

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

Length of leave

29. This table shows the grants of leave available.

| Type of leave: | Length of grant: |
|---|------------------------------|
| Entry clearance | Three years plus four months |
| Switching (Leave to remain where previous grant of leave was not as a Tier 1 (Entrepreneur)) | Three years |
| Extension (Leave to remain where previous grant of leave was as a Tier 1 (Entrepreneur), Businessperson or Innovator) | Two years |

30. Information on how to apply for Indefinite Leave to Remain (settlement) is available on the UK Border Agency website on <http://www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDs/idichapter6a/>.

Eligibility to apply in the UK

31. You are allowed to make an initial application in the UK (including switching from one immigration category to another) if you are here with permission to stay as:

- a highly skilled migrant;
- a Tier 1 (General) migrant;
- a Tier 1 (Entrepreneur) migrant;
- a Tier 1 (Investor) migrant;
- a Tier 1 (Post-Study Work) migrant;
- a Tier 1 (Graduate Entrepreneur) migrant
- a Businessperson;
- 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.

Conditions of stay

32. Permission to stay under this route will be subject to the following conditions:

- a) no recourse to public funds (which means you 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;
- c) no employment other than working for the business or businesses that you have established, joined or taken over; and
- d) No employment as a professional sportsperson (including as a sports coach).

Tier 1 (Entrepreneur) - Points Scoring

Points scoring requirements

33. In order to obtain entry clearance or leave to remain within Tier 1 (Entrepreneur) you must score enough points and send supporting evidence where appropriate.

34. Under Tier 1 (Entrepreneur), you 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).

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

Attributes for initial entry

36. Points available for attributes are in the table below. The table on page 10 overleaf applies to you if you are seeking:

- entry clearance or leave to enter as a Tier 1 (Entrepreneur) migrant and did not have leave in this category within the last 12 months; and
- further leave to remain in the UK in this category when your previous permission to stay was given under a category **other than** Tier 1 (Entrepreneur) or one of the former Businessperson, or Innovator, categories, so you are switching categories.

Entrepreneur teams

37. The money for investment can be shared by a team of up to two Entrepreneurs. 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 used the same funds with any other applicant.

Claiming points for attributes

Section a: £200,000 funding

38. You must have £200,000 of your own money available to make a fresh investment into business in the United Kingdom. You should supply documentary evidence of the money in your own name as specified in the '**Documents we require**' section below.
39. You can include money made available by other people (known as 'a third party or parties') but you must also provide a declaration that the money is available to you or the business that you are running, from each contributor of funds, together with confirmation that the declarations are valid. If you are relying on money held by your husband, wife or partner, they will be regarded as a third party.
40. This money can be made up from money already invested in a UK business together with access to any balance of money needed to total £200,000.
41. If you have formed an Entrepreneurial Team with another applicant, each third party must confirm that the funds are available to both team members. The total amount available to your entrepreneurial team must be £200,000 or more.

Section b: £50,000 funding

42. You must have access to £50,000 or more 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.
43. You must supply documentary evidence as specified in the '**Documents we require**' section below. This will include a letter from each venture capital firm; seed funding competition; or UK Government Department allowing you to use the funds, and evidence of the funds.
44. Funds from more than one of these sources may be combined to total the required £50,000.
45. You may not mix your personal or other third party funds with the funding from the venture capital firms, seed funding competitions and/or UK Government Departments towards the £50,000. If you wish to mix the funding you will need to invest £200,000 into the UK business.
46. This money can be made up from funding obtained from the Venture Capital firm(s), Seed funding competitions and/or UK Government Department(s) already invested in business together with access to any balance of money from these sources needed to total £50,000.
47. If you have formed an Entrepreneurial Team with another applicant, the documents must

confirm that the funds are available to both team members. Your Entrepreneurial team member must also qualify to use the same amount of investment if the total amount available to your entrepreneurial team is £50,000 or more. If the other team member does not also qualify for this level of investment, the total amount available to the team must be at £200,000 or more.

48. Only the following sources of funding will be accepted for this section. 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.

Section c: Leave as a Tier 1 (Graduate Entrepreneur) Migrant and £50,000 funding

49. You must be applying from within the UK and have last been granted leave as Tier 1 (Graduate Entrepreneur) migrant. You will not be asked to provide documentary evidence of this, we will use your travel document or passport and our records.

50. You must also have £50,000 of your own money available to make a fresh investment into business in the UK. You must supply documentary evidence of the funds as specified in the '**Documents we require**' section below.

51. You can include money made available by other people (known as 'a third party or parties') but you must also provide a declaration that the money is available to you or the business that you are running, from each contributor of funds, together with confirmation that the declarations are valid. If you are relying on money held by your husband, wife or partner, they will be regarded as a third party.

52. This money can be made up from money already invested in business together with access to any balance of money needed to total £50,000.

53. If you have formed an Entrepreneurial Team with another applicant, the documents must confirm that the funds are available to both team members.

- Your Entrepreneurial team member must also qualify to use the same amount of investment if the total amount available to your entrepreneurial team is £50,000 or more.
- If the other team member does not also qualify for this level of investment, the total amount available to your entrepreneurial team must be at £200,000 or more.

Section d: Leave as a Tier 1 (Post-Study Work) Migrant and access to £50,000

54. You must be applying from within the UK and have last been granted leave as a Tier 1 (Post-Study Work) migrant. You will not be asked to provide documentary evidence of this; we will

use your travel document or passport and our records.

55. You must also have £50,000 of your own money available to make a fresh investment into business in the UK, and be established in business in the UK as a self-employed person or as a director.

i. Applying for leave to remain

You must be in the UK and be applying to switch to Tier 1 (Entrepreneur). You may not use **section d** (see the attributes table for initial applications) if you are applying for Entry Clearance or Leave to Enter.

ii. Last granted leave as Tier 1 (Post-Study Work) migrant

You must have last had leave as a Tier 1 (Post-Study Work) migrant.

iii. Registered with HM Revenue and Customs as self-employed; or registered as a director

You must have been registered as self-employed or a director of a business within the last 3 months before submitting your application as a Tier 1 (Entrepreneur).

iv. In an occupation skilled to graduate level

Other than the work necessary to administer the business, your main business activity must be working at graduate level. **We will not take into account the tasks involved with the running of the business for this assessment.**

For example

- If the business is software sales and your main activity is developing software, you may qualify for points;
- If the business is a taxi firm, the main occupation is driving a taxi and you will not score points even though you manage the business. Your main activity is providing a taxi service which is not skilled to graduate level.

Guidance on what is a graduate level occupation (also called level 4 and above of the National Qualifications Framework) is available in the codes of practice which are available on our website: <http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/codesofpractice/>

v. Access to £50,000

You must also have at least £50,000 to invest in UK business. You must supply documentary evidence of the funds as specified in the '**Documents we require**' section below.

56. You can include money made available by other people (known as 'a third party or parties') but you must also provide a declaration that the money is available to you or the business that you are running, from each contributor of funds, together with confirmation that the declarations are valid. If you are relying on money held by your husband, wife or partner, they will be regarded as a third party.

57. This money can be made up from money already invested in business together with access to any balance of money needed to total £50,000.

58. If you have formed an Entrepreneurial Team with another applicant, the documents must confirm that the funds are available to both team members. Your Entrepreneurial team member must also qualify to use the same amount of investment if the total amount available to your entrepreneurial team is £50,000 or more. If the other team member does not also qualify for this level of investment, the total amount available to the team must be at £200,000 or more.

Available funds - all applicants

Funds already invested.

59. If you have already legally established a business in the UK while under a different immigration category, you may use this investment to claim points if it satisfies the requirements. If all of the money needed has been invested, all of the points needed for attributes can be awarded (75 points).

60. The investment must have been made in the 12 calendar months before the date of application. Any investment made more than 12 months before your application will not be counted.

61. We recognise that, as an entrepreneur, you may have moved on to other activities and no longer be involved in the business in which you initially invested, but we still require this evidence to show that the money was invested.

62. The amount of money invested 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.

63. If you have bought property for your business which includes residential accommodation, we will not accept the value of this part of the property as investment in the business. The value of this part of the property should be deducted from the amount of your investment. You must provide an estimate of the value of this living accommodation from a surveyor who is a member of the Royal Institution of Chartered Surveyors (RICS). This valuation must be produced and dated within the three months prior to the date of application. For more information on membership of RICS please see www.rics.org.

Money available for investment must be in a regulated financial institution

64. Confirmation of the money available to you must come from a financial institution that is 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. The regulatory body must be appropriate for the type of financial transaction.

65. Money held in the UK must be held in an institution that is regulated by the Financial Services Authority (FSA).

Money available for investment must be disposable in the UK

66. If the money is not held in the UK, all of the funds required must be freely transferable to the UK and able to be converted to pounds sterling.

67. Money held in an overseas account but in a financial institution that is regulated by the FSA will satisfy this requirement.

68. Money held overseas in an institution that is not regulated by the FSA must have confirmation that the money can be transferred into the UK. This can be a document from your financial institution.

You should also read the English and maintenance sections of this guidance.

Attributes for extension applications

69. In order to obtain an extension to your leave to remain as a Tier 1 (Entrepreneur) migrant you must score enough points and send supporting evidence where appropriate.

70. Points available for attributes are in the table below. This table applies to you if your previous leave was as a

- Tier 1 (Entrepreneur) migrant, a Businessperson or Innovator in the 12 months immediately before the date of this application: or
- You are applying for leave to remain and have or were last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.

Attributes table for extension applications

| Attributes: pass mark = 75 points | |
|---|-----------|
| Points available | |
| A. You have invested, or had invested on your behalf, not less than £200,000 (or £50,000 if, in your last grant of leave, you were awarded points for funds of £50,000) directly into one or more businesses in the UK. | 20 |
| B. You have: <ul style="list-style-type: none"> • registered with HM Revenue & Customs as self-employed; or • registered a new business in which you are a director; or • registered as a director of an existing business. <p>Where your 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> <p style="padding-left: 40px;">The date of your entry to the UK, where you were granted entry clearance as a Tier 1 (Entrepreneur) Migrant and where there is evidence to establish your date of entry to the UK; or</p> <p style="padding-left: 40px;">The date of your grant of entry clearance, where you were granted entry clearance as a Tier 1 (Entrepreneur) Migrant and where there is no evidence to establish your date of entry to the UK; or</p> <p style="padding-left: 40px;">The date of your grant of leave to remain, in any other case.</p> <p>This does not apply where your last grant of leave prior to the grant of leave that you currently have was as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.</p> | 20 |

| | |
|--|-----------|
| <p>C. You are engaged in business activity at the time of your application to extend your leave to remain and you provide the specified evidence to show that on a date no earlier than three months prior to the date of application, you were:</p> <p>(a) registered with HM Revenue and Customs as self-employed, or (b) registered a new business in which you are a director, or (c) registered as a director of an existing business.</p> | 15 |
| <p>D. You have:</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 UK; <p>OR</p> <ul style="list-style-type: none"> • taken over or invested in an existing business or businesses and your 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 your 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 |
| English language: pass mark = 10 | |
| <p>Evidence to prove that you speak English to the required standard and meet the requirements explained in this guidance. Please see the relevant section below.</p> | 10 |
| Maintenance: pass mark = 10 | |
| <p>A certain amount of funds to support yourself (and any dependants) in the UK. Please see the relevant section below</p> | 10 |

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

Entrepreneur teams

72. The money for investment can be shared by a team of up to two Entrepreneurs. 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 used the same funds with any other applicant.

Claiming points for attributes

Section A: investment of funds

73. You must show that either the full amount of £200,000, or of £50,000 if appropriate, in cash has been invested in business in the United Kingdom. You must supply documentary evidence as specified in the '**Documents we require**' section below.

74. If you invested funds in the 12 months before you entered the category, you may have provided evidence of the funds as part of your last successful application. If so you do not need to provide that evidence again.

75. We recognise that, as an entrepreneur, you may have moved on to other activities and no longer be involved in the business in which you initially invested, but we still require this evidence to show that the money was invested.

76. If you entered the Tier 1 (Entrepreneur) category as part of an entrepreneurial team, both team

members can use the same evidence for creating employment.

77. The amount of money invested 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.

78. If you have bought property for your business which includes residential accommodation, we will not accept the value of this part of the property as investment in the business. The value of this part of the property should be deducted from the amount of your investment. You must provide an estimate of the value of this living accommodation from a surveyor who is a member of the Royal Institution of Chartered Surveyors (RICS). This valuation must be produced and dated within the three months prior to the date of application. For more information on membership of RICS please see www.rics.org.

Section B registered within six months of entering

79. You must have been registered as self-employed with HM Revenue & Customs, registered a new company in which you are a Director, or been registered as a Director of an existing company within the six months after entering the category (your specified date is defined in the glossary). You must meet the requirement if your previous leave was as a Tier 1 (Entrepreneur), and supply documentary evidence as specified in the **Documents we require** section below. You must provide this evidence even if you were registered as self-employed or as a director before you entered the route. Your leave may be curtailed (removed) if you are found not to have fulfilled this requirement.

80. If your last grant of leave, prior to the grant of leave that you currently have, was as a Businessperson, or Innovator, you will not need to fulfil this requirement. These points will be awarded if you tick the appropriate box in the extension application form, and if you are registered at the time of your application to extend your leave (see section C below).

81. You must have been registered within six months of your specified date. If you wish your specified date to be the date you entered the UK you must provide evidence to establish this date. Otherwise the six months will be calculated from the date you were 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, but where you can not provide either of these pieces of evidence you can supply other documents for consideration which prove the date you entered the UK.

82. We recognise that you may have moved on and no longer be engaged in the business in which you were originally working when you first entered the Entrepreneur category, but we still require evidence that you were engaged in business within six months of entering the route.

Section C registered when you apply for the extension

83. You must be engaged in business activity at the time of your application to extend your leave and provide the specified evidence to show that you were registered as self-employed, or as a director in the three months before you apply. You must supply documentary evidence as specified in the '**Documents we require**' section below.

84. You may change from being self-employed to being a Director, or from Director to self-employed, as long as you are engaging in business in the UK as one or the other.

85. The evidence must be dated within 3 months of making the application to extend your leave.

86. You may choose which evidence to supply if you have acted in both capacities, but we will only award points for one registration.

Section D job creation

87. If you have established new businesses, those businesses must have, between them, created the equivalent of two extra full-time paid jobs for at least two people who are settled in the UK and those jobs must have existed for at least 12 months each. You must supply documentary evidence as specified in the '**Documents we require**' section below.

88. Where you have taken over or invested in an existing business, your services and investment must have resulted in the businesses providing, between them, the equivalent of two extra full-time jobs during the period when you held leave as a Tier 1 (Entrepreneur) migrant. These jobs must have been taken by people who are settled in the UK and those jobs must have existed for at least 12 months each.

89. 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.

90. If your previous leave, prior to the grant of leave that you currently have, was given under one of the former Businessperson or Innovator categories, you are only required to show that you have created two extra full-time jobs. You do not need to show that the employment has been for 30 hours per week or for a continuous 12-month period.

91. If you are self-employed you must employ the workers directly. If you are a Director of a business you must show that your business has created two new posts.

92. If you entered the Tier 1 (Entrepreneur) route as part of an entrepreneurial team, both team members can use the same evidence for creating employment.

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/>.

93. Only employees of your business will qualify. Self-employed contractors who are working for your business will not qualify for the award of points.

94. **EXAMPLES:** We would consider the following as acceptable employment:

- 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. Only periods during which a worker is employed in a post will be considered.
- A single worker can be employed for 24 months. 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.

Documents we require

95. Paragraphs 245A(a) and 46 of Appendix A of the Immigration Rules states that only specified documents will be accepted as evidence for applications for Tier 1 (Entrepreneur). The specified documents are given below.

96. All documents must be in English, or accompanied by a certified translation from a professional translator. The 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.

Evidence of the amount of money available to invest

97. You should use this evidence of funds available to invest for your initial application under **sections a; b; c and d** (see the attributes table for initial applicants).

98. You must provide one or more of the following documents

- A letter from a financial institution;
- For money held in the UK only, an account statement;
- For money from a Venture capital firm, seed funding competition or UK Government Department only, a letter from an authorised accountant.

More information is set out below.

99. A letter from a financial institution holding the funds, to confirm the **amount of money** available to you (or your team if you have formed an entrepreneurial team).

The total amount of available money must be either at least £200,000; or at least £50,000 as applicable. If the money is held in several financial institutions, you must supply a recent letter from each institution. If the money is not held in pounds sterling, we will use the rate of conversion on the Oanda website at <http://www.oanda.com> to convert the money into pounds sterling, using the exchange rate that applies on the date of the application.

Each letter must:

- be an original document and not a copy;
- be 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 your application.

Each letter must also confirm each of the following details:

- that the institution is regulated by the appropriate body;
- your name, and your team member's name if you have formed a entrepreneurial team;
- the date of the document;
- the amount of money available from your own funds (if applicable) that are held in that institution;
- the amount of money to you from any third party (if applicable) that is 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 UK.

A template is included in Annex E at the end of this guidance (document 1) for your convenience if you wish to use it.

100. **For money held in the UK only, a recent personal bank or building society statement from the UK financial institution holding the funds, which confirms the amount of money available to you or your entrepreneurial team.**

The total amount of available money must be either at least £200,000; or at least £50,000, as applicable. If the money is held in several financial institutions, you must supply a statement from each institution.

- The statements must be original documents and not a copy.
- The bank or building society holding the money must be based in the UK and regulated by the FSA;
- The money must be in cash in the account. We will not accept ISA accounts or assets such as stocks and shares;
- The account must be in your own name only (or both names for an entrepreneurial team) only. Accounts in the name of a business or third party will not be accepted;
- Each bank or building society statement must be on the institution's official stationary and confirm each of the following details:
 - Your name; or your name and your entrepreneurial team member's name,
 - The account number
 - The date of the statement
 - The financial institution's name and logo;
- The bank or building society statement must have been issued by an authorised official of that institution and produced within the three months immediately before the date of your application.

Electronic statements: We will not accept printouts of electronic statements from an online account without either a supporting letter from the bank, on company headed paper, confirming the authenticity of the statements, or without the official stamp of the bank in question on each page of the statement.

101. **For £50,000 from a Venture Capital firm, Seed Funding Competition or UK Government Department only, a recent letter from an accountant confirming the amount of money made available to you.**

Each letter must:

- be an original document and not a copy;
- on the institution's official headed paper;
- have been issued by an accountant engaged by the Venture Capital firm, Seed funding competition or UK Government Department to provide the information; 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:

- your name and the name of your team member if you have formed an entrepreneurial team;

- the date of the document;
- the amount of money available to you or your business from the Venture Capital firm, Seed funding competition or UK Government Department;
- the name of the Venture Capital firm, Seed funding competition or UK Government Department and the contact details of an official of that organisation. These must include their full address including postal code, landline phone number and any email address;

The accountant must be a member of a recognised UK supervisory body. If they are not, we will not accept this item of evidence and will not award any points for this evidence.

Additional evidence for third-party funding

102. You should use this for your initial application under **sections a; b; c and d** (see the attributes table for initial applicants) if you are relying on money made available from someone else. If you are applying using money from a third party you must provide a declaration from each third party together with a declaration from one or more legal representatives.

103. Third parties (other contributors of money) may include family members, as well as other investors or corporate bodies. If you are relying on third-party funding, you must also supply **each** of the following documents:

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

This declaration must be an original document and not a copy. It **must** contain:

- the names of the third party and your name (and your team member's name if you have formed an entrepreneurial team);
- the date of the declaration;
- your signature and the signature of the third party (where you have formed an entrepreneurial team, you and your team member must both sign);
- the amount of money available to you from the third party in pounds sterling; and
- the relationship(s) of the third party to you.
- For a Venture Capital firm only, 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
- For a UK entrepreneurial seed funding competition only, a document confirming that you have been awarded money and that the competition is listed as endorsed on the UK Trade & Investment website, together with the amount of the award and naming you as a winner, and/or
- For a UK Government Department only, a document confirming that it has made money available to you for the specific purpose of establishing or expanding a UK business, and the amount.

You must be able to have access to and dispose of the money freely in the UK. Where you are part of an entrepreneurial team sharing investment funds both entrepreneurs must have equal access to, and be able to 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).

In addition you must also provide

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

This must confirm that the declaration from the third party contains the signatures of the people stated. It can be a single letter covering all third-party permissions, or several letters from several legal representatives. It must be an original letter and not a copy, and it must be from a legal representative permitted to practise in the country where the third party or the 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;
- your name (and your entrepreneurial team member's name if appropriate) and third party's name;
- that the declaration from the third party is signed and valid;
- For individuals who are third party donors only, 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. This is not needed from a Venture Capital firm, Seed funding competition or UK Government Department.

A template is included in Annex E at the end of this guidance (document 2) for your convenience if you wish to use it.

Money that has been invested in business

104. You should use this for initial applications under **sections a; b; c and d** (see the attributes table for initial applicants) or for **section A** of your extension application if applicable.

Evidence to show how much has been invested

105. You must provide all the appropriate specified documents needed to establish the amount you have already invested from the following list.

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>

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 (see below).

Audited or unaudited accounts must show the investment in money made directly by you, in your own name. If you have invested by way of share capital the business accounts must show the shareholders, the amount and value of the shares (on the date of purchase) in your name as it appears on your application. If the value of your share capital is not shown in the accounts, then share certificates should be submitted as documentary evidence.

The accounts should clearly show the name of the accountant and the date the accounts were produced. The accountant must be a member of a recognised UK supervisory body (see glossary); if not, we will not accept this evidence. The accounts must show how much you have invested in the business.

iii) Director's loan

If you have made the investment in the form of a director's loan, it must be shown in the relevant set of accounts provided, and you must **also** provide a legal agreement, between you (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 that it is a UK business

106. For each business you are providing evidence of investment in, you must supply the appropriate evidence from the lists below to prove that it is a UK business. One piece of evidence from each of rows 1, 2 and 3 in the table should be provided for each business or company. The required evidence differs depending on whether you were self-employed or a director of the 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. If you had no business premises we will use your 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 your name, as it appears on the application form, as a director. |
| 2. | Business has a United Kingdom bank account | a) Personal bank statement showing transactions for your business; b) Business bank statement; or c) Letter from a UK bank confirming that you have a business and act through that bank. | a) Company bank statement showing that the company has a UK account; or b) Letter from a UK bank confirming that the company has a bank account. |

| | | | |
|----|---|---|---|
| 3. | Business must be subject to United Kingdom taxation | <p>You must be registered as self-employed for National Insurance assessment. You must supply one of the following:</p> <p>a) the welcome letter from HM Revenue & Customs;</p> <p>b) the Small Earnings Exception certificate;</p> <p>c) a copy of the National Insurance bill from HM Revenue & Customs; or</p> <p>d) your bank statement showing that National Insurance is taken by HM Revenue & Customs by direct debit.</p> | <p>Business must be registered for corporation tax with HM Revenue & Customs. You must supply either:</p> <p>a) a copy of form CT41G from HM Revenue & Customs</p> <p>This must be completed and show the date of registration of the company with HM Revenue & Customs and the HM Revenue & Customs unique reference number; or</p> <p>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 you should provide a printout of the form.</p> |
|----|---|---|---|

Investment in business premises that also includes residential accommodation

107. If you have bought property that 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. You 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

Initial applications under **sections a; b; c and d** (see the attributes table for initial applicants)

108. If some of the money has been invested into a business in the UK, the balance of funds must be held in a regulated financial institution and disposable in the UK. In this case you should use the evidence required for the previous investment of money *together with* the evidence required for your access to the balance of sufficient funds to meet the requirement.

Evidence of registration as self-employed or as a director –extension applications only

109. You should use this for section B of your extension application. You must provide evidence of your registration within the 6 months after your specified date. Your specified date can be the date of entry to the UK (if you were given Entry Clearance and have the evidence of your date of entry), or the date of your grant of entry clearance, or the date of your grant of leave to remain if you applied in the UK.

110. If your last grant of leave, prior to the grant of leave that you currently have, was as a Businessperson, or Innovator, you will not need to fulfil this requirement. These points will be awarded if you tick the appropriate box in the extension application form, and if you are registered at the time of your application to extend your leave.

Self-employed applicants

111. If you were self-employed you must provide one of the following:

- i) Original welcome letter from HM Revenue & Customs: If you registered as self-employed you will have received a welcome letter from HM Revenue & Customs containing your unique taxpayer reference number. The original, dated document should be provided.
- ii) An Exception Certificate from HM Revenue & Customs: If you took advantage of the HM Revenue & Customs exception provision you will have received a certificate. The original, dated document should be provided.

HM Revenue & Customs will issue the welcome letter or the exception certificate at any time up to six weeks from the date of first contact with a self-employed worker. We will accept a letter or certificate that is dated up to eight calendar months from your specified date. For example, if your grant of leave is dated 1 May 2011, the letter or certificate must be dated on or before 30 December 2011. If your letter or certificate is dated more than eight calendar months after your specified date we will not consider it.

- iii) A National Insurance (NI) bill from the HM Revenue & Customs dated in the 6 months after the specified date. This must be an original document and not a copy.
- iv) Your bank statement dated in the 6 months after the specified date, showing the direct debit payment of National Insurance to HM Revenue & Customs.

Director of a new or existing company

112. If you were a director of a new or existing company you must provide the following:

Current Appointment Report from Companies House: This will list the Directors of a company and the dates of their appointment. Even if you are no longer a Director of the same company, we require the Current Appointment Report for the date that you became a Director of that company.

If the date on the Current Appointment Report was more than 8 months after your specified date we will not award any points for this section.

Evidence of current registration as self-employed or as a director

113. You should use this for initial applications under **section d** (see the attributes table for initial applicants) and for **section C** for extension applications.

Self-employed applicants

114. If you are self-employed when you apply, you must provide evidence that you are paying Class 2 National Insurance contributions. You may also pay Class 4 National Insurance, but we only need to see evidence of Class 2 payments.

115. National Insurance contributions may be paid by quarterly bill or direct debit, or you may have applied for a small earnings exception certificate.

116. You must provide one of the following documents, according to your individual circumstances.

If you receive a National Insurance bill:

You must provide the bill from the billing period immediately before the application. This must be an original document and not a copy.

If your National Insurance is paid by direct debit:

You must provide a copy of your most recent bank statement issued before the application, showing the direct debit payment of National Insurance to HM

Revenue & Customs.

If you have very low earnings and have applied for the small earnings exception:

You should provide an original small earnings exception certificate issued by HM Revenue & Customs for the most recent return date.

Directors

117. If you are a Director of a UK company when you apply you must provide:

A Current Appointment Report from Companies House:

A current appointment report will list the Directors of a company and the dates of their appointment. You must obtain a printout of the Current Appointment Report from Companies House (this will require paying a fee to Companies House).

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

119. The report must show your name, as named in your application form, as the Director of a business that is actively trading and not struck-off, or dissolved or in liquidation on the date that the printout was produced.

120. 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/>.

Evidence of graduate level occupation

121. You should use this for your initial application under **section d** (see the attributes table for initial applicants).

122. You must show that you have been engaged in business activity, other than the work necessary to administer your business, in an occupation which appears on the list of occupations skilled to graduate level (also called National Qualifications Framework level 4 and above), as stated in the codes of practice for Tier 2 sponsors published by the UK Border Agency.

123. You must provide your own job title, and confirm that the job title appears on the graduate level occupation list available in the codes of practice, which is available on our website: <http://www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/codesofpractice/>

124. You must provide one or more documents from the following list to confirm your business activity:

- Advertising or marketing material that has been published locally or nationally, showing your name (and the name of the business if applicable) together with the business activity. This can include printouts of internet advertising;
- Article(s) in a newspaper or other publication showing your name (and the name of the business if applicable) together with the business activity. This can include an online link to the publication;
- Information from a trade fair(s) that you have had a stand or given a presentation to market your business. This must show your name (and the name of the business if applicable) together with the business activity;
- Personal registration with a trade's body linked to your occupation.

125. You must also provide one or more contracts showing trading. We will accept original documents or copies, but if it is a copy you must sign each page of the contract. The contract must show:

- Your name and the name of the business,
- the service provided by your business; and
- the name of the other party/parties involved in the contract and their contact details. These must include their full address including postal code, landline phone number and any email address.

Employment creation

126. Use this for **section D** of your extension application.

127. You may use evidence from your business if you have been self-employed or a director, or a combination of the two towards evidence of having created two full time posts.

Section 1: Evidence that the employee is a settled worker:

128. Only jobs that are given to people who are settled in the UK will qualify for the award of points.

129. Documents kept by an employer as evidence that an employee is a settled worker will often be the passport pages from a UK passport that contain the employee's personal details, and the page containing the UK Government stamp or endorsement, if appropriate. It may also be the worker's full birth certificate, showing the name of at least one parent.

130. Full guidance on the documents is in the section on employing legal workers, which can be found on our website at: <http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/complyingwiththelaw/>

Section 2: Number of hours worked by an employee

131. You must have the appropriate evidence to support your claims about every employment.

132. Employers 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 advice on the HM Revenue & Customs website at www.hmrc.gov.uk or through the sponsorship and employers' helpline on 0845 7143 143.

133. You must supply evidence to prove you have created no less than two new full-time posts, and provide the following documents for each worker as evidence. (If the business employed workers before you joined it, we will also require the extra documents detailed in the 'Extra documents needed if you took over or joined an existing business' section below):

- a duplicate of form P11, (also known as the Employee Payment Record) that you have signed and dated;
- an original form P45 or P46: This need only be submitted in cases where the P11 does not show the start date for the worker; and
- duplicate wage documents issued to the worker covering the full period of employment of the worker used as evidence for this application.

i) Form P11 (also called the Employee Payment Record)

134. The hours claimed for the award of points must be supported by a P11 entry.
135. The employer must keep 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.
136. 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.
137. You must tell us the hourly rate paid to the employee on your application form.
138. You must also 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 (also called a Full Payment Submission)

139. If the date of the start of the employment is not shown in the P11 form, then you 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. Employers who are taking part in the Real Time Initiative (RTI) pilot should provide a print out of the Full Payment Submission (FPS), sent to HMRC, which includes the start date of the worker. This forms part of submission under the RTI. In this case you should initial each of the print outs.

iii) Pay statements (wage slips)

140. You must provide duplicate pay statement documents, often known as pay slips or wage slips, for each worker for whom points are being claimed. These must cover the full period of the employment for which points are being claimed.

Hourly rate

141. For the purposes of the extension application you are also required to state the hourly rate for each employee used to claim points, including any changes in the hourly rate and the dates of the changes. This will enable us to calculate how many hours of work were created for each worker.

Assessing the date that you joined the business

142. You can only use employment created when you were engaged in the business. If you joined an existing company as a Director you may only submit hours of employment created after you joined the company
143. **For Directors of a company:** the information from the Companies House Current Appointment Report will be used for two assessments: We will check that you were a Director of the company that employed the worker; and we will also check that you were a Director of the specific employing company at the time that the settled worker was employed.
144. **For self-employed applicants:** We will cross-check the details of the business with the evidence the applicant provides to show that it was a UK business. This will include the dates that you became self-employed, the names on the P11 and bank account, and the address of the business.

145. For new businesses, established after you entered the UK, we will accept that the posts created are additional to jobs that existed in the UK before you arrived.

Extra documents needed if you took over or joined an existing business

146. If you have taken over or joined a business that employed workers before you joined it, you 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, you must show that you have created new posts.

147. You 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.

148. If your previous permission to stay in the UK was made under one of the former Businessperson or Innovator categories you do not need to provide these documents unless you choose to.

iv) Form P35

149. This is the annual return listing the names of employees of a business. Employers who are taking part in the Real Time Initiative (RTI) pilot should provide a print out of the information sent to HMRC. In this case the applicant should initial each of the print outs.

- If this is an online copy of the P35 return to HM Revenue & Customs, you must sign and date the copy.
- You must provide the P35 for the year before the jobs were created and the year that the jobs were created. This is only needed if you are using evidence from this business of your creation of employment.
- 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 you claim 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 you joined the business with the number of workers afterwards.
- If the posts were created too recently for a P35 to have been produced, you should provide a draft copy, and sign and date it.

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

150. 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;
- your status in the business;
- the number of posts created in the business and the hours worked;
- 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 your behalf; and
- that the accountant will confirm the content of the letter to us at our request.

English Language Requirement

English language assessment

151. English is the most widely spoken language of the UK. The ability to speak English to a competent level promotes success in the UK labour market and assists in integration into the UK.

152. You must provide the specified documents to show that you have a good knowledge of English.

153. There are three ways in which you can show you meet the English language requirement. These include:

- being a national of a majority English speaking country; or
- passing an English language test detailed in this guidance; or
- holding a degree that was taught in English and is equivalent to a UK bachelor's degree or above.

Claiming points

154. You can also meet the English language requirement, without the need to provide evidence, if you were last given permission to stay in the UK:

- under Tier 1 (General) or Tier 1 (Entrepreneur) and are applying for an extension of leave to remain; or
- as a Businessperson (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 you are applying for an extension of leave to remain under a Tier 1 category.

155. 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 you have attained the pass mark of 75 for attributes and have 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

156. 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

157. 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

If you are unable to submit your current original passport or travel document at the time of the application you 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 your 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.

If your passport or travel document is not available for one of the reasons above, you may exceptionally provide the following alternative specified documents:

ii) Current national identity document

iii) Original letter from your 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 your:

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

English language test

158. We will only accept test certificates from providers that have been assessed as meeting our requirements. Details are available on our website at: <http://www.ukba.homeoffice.gov>.

[uk/workingintheuk/tier1/general/eligibility/pointsassessment/englishlanguage/](http://uk.workingintheuk/tier1/general/eligibility/pointsassessment/englishlanguage/) . You must check that you have passed an English language test that is still within its validity period, and have achieved at least CEFR level C1 in all four components (reading, writing, speaking and listening).

159. If you have a disability (for example, hearing difficulties) you are not exempt from the English language requirement. You should contact a test provider for details of support that can be provided while taking the test.

Documents we require

160. Your original test result certificate must be provided. The certificate must clearly show:

- your name;
- the qualification obtained; and
- the date of the award.

Degree taught in English

161. You may provide evidence that you hold a degree which is equivalent to a UK Bachelors level or higher and which was taught or researched in English to a particular level as evidence of your English language ability.

162. Your degree **must**:

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

163. 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.)

164. Where the degree was taken in a country that is not on the list above, 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 UK Bachelors level or higher.
165. You can claim points when the points based calculator confirms that the degree:
- meets or exceeds the equivalent level to UK 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

166. You should check your degree by referring to the points based calculator on our website at: <http://www.ukba.homeoffice.gov.uk/pointscalculator>
167. Where the points based calculator is unable to confirm these details, points will not be awarded for the qualification in question.
168. Where you are unable to find details of your 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, you should either present an alternative qualification from the points based calculator if you possess one, or select an alternative means of satisfying the English Language requirement.

Documents we require

169. Only the following specified documents will be accepted as evidence of this requirement:
- Original certificate of award.

This document must be original and must clearly show:

- your name;
- the title of the award;
- the date of the award; and,
- the name of the awarding institution.

Please note that original provisional certificates are not acceptable.

This document must always be provided unless you are awaiting graduation but have successfully completed your degree or no longer have the certificate and the awarding institution is unable to issue a replacement, in which case the following should be sent

- Original academic transcript.

If you are awaiting graduation but have 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:

- Your name;
- 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.

You 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

170. One of the requirements of Tier 1 is that an applicant coming to the UK 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.

171. In order to qualify for entry clearance under Tier 1, you must show that you have enough money to support yourself (and any dependants). The maintenance requirement is detailed below:

- For applications submitted before 14 June 2012, 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
- For applications submitted on or after 14 June 2012, applicants outside the United Kingdom seeking entry clearance must have at least £3,100 of personal savings which must have been held for a consecutive 90 day period before the date of application

172. In order to qualify for leave to remain under Tier 1 you must show that you have enough money to support yourself. The maintenance requirements are detailed below:

- For applications submitted before 14 June 2012, applicants in the United Kingdom seeking further leave to remain must have at least £800 of personal savings which must have been held for a consecutive 90 day period prior to the date of application.
- For applications submitted on or after 14 June 2012, applicants in the United Kingdom seeking further leave to remain must have at least £900 of personal savings which must have been held for a consecutive 90 day period prior to the date of application.

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

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

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

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

177. 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 you had leave to enter or remain in the United Kingdom at the time they were earned, and in a category which permitted you to take that employment.

Documents we require

178. 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.

179. 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, overdrafts, credit cards, pension funds etc, are not acceptable, regardless of notice period.

180. Where you are providing evidence of maintenance from a single account, we will always assess the funds available to you from the closing balance given on the document provided.

181. Where two or more pieces of evidence from a single account are submitted (for example two consecutive bank statements) we will assess the funds available to you from the closing balance of the most recent document.

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

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

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

183. No points will be awarded where the specified documents show that the funds are held in a financial institution with which the UK Border Agency is unable to make satisfactory verification checks. A list of financial institutions which do not satisfactorily verify financial statements is published on the UK Border Agency website at: www.ukba.homeoffice.gov.uk/sitecontent/documents/studying/financial-institutions/

184. 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 31 days before the date of application.

The personal bank or building society statements should clearly show:

- your 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 £3,100 or £900 or £800, as appropriate), covering the 90 day period before the date of application;

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

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

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

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

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

The building society pass book should clearly show:

- your name;
- 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 £3,100 or £900 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 90 days:

The letter from a bank or building society should show:

- your name;
- the account number;
- the date of the letter
- the financial institution's name and logo;
- the funds held in your account
- that the funds of £3,100 or £900 or £800 as appropriate, have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

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

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

We will not accept letters which show the balance in the account on a particular day as these

documents do not show that you have held 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 31 days before the date of application:

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

- your name;
- the account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in your account; and
- that the funds of £3,100 or £900 or £800 as appropriate have been in the bank for at least a consecutive 90 day period on and immediately before the date of the letter.

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

All statements must be on the bank's letterhead or 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 you have held sufficient funds for the full period needed.

Tier 1 (Entrepreneurs) - Indefinite Leave to Remain

185. If you wish to apply for Indefinite Leave to Remain (Settlement) in the UK you 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 www.oanda.com on the date the application was made. This is an independent website, for which we are not responsible.

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. If you have already legally established a business that complies with relevant UK legislation in the United Kingdom while here under a different immigration category, you must satisfy the full requirements for the Entrepreneur initial application before you can be considered for approval. This means that if you made the investment in the business more than 12 months before applying to enter the category, you must make a further investment of £200,000.

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

A5. Funds that you claim 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. Evidence submitted from accountants must be members one of the following supervisory 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).

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, you should provide the accounts of that business for assessment. These accounts must show the investment in money made directly by you, in your own name.

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

You must give us business accounts showing the shareholders in the business. The amount and value of the shares (on the date of purchase) owned by you (in your name as it appears on your application) must be shown. If the value of your 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 you have loaned 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, not including you.

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 you 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 you to set up as a landlord 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 you 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, you 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:

1. has its business premises (unless you are self-employed and do 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;
2. 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
3. is subject to United Kingdom taxation.

Any business that benefits from your £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. You must obtain the report from Companies House, for a fee, and send it with your application. This document shows when you 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. You will either be self-employed or employed, depending on how you decide 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 you advice on compliance with employment legislation. You 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.

You can claim points for employees who are:

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

However, you cannot claim points for a self-employed worker who is contracted to work for you. 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 your 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. You 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 Bulgaria and Romania, unless exempt from worker authorisation, must be registered 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;
- Settled 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 your 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 you or your 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 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.

The Real Time Initiative (RTI) is a new scheme introduced by the HM Revenue & Customs in 2012. It will be piloted by 300 employers from April 2012 but by October 2013 all employers will be involved. Under RTI, information about tax and other deductions will be collected and transmitted to HM Revenue & Customs every time an employee is paid. Employers using RTI will no longer be required to provide information to the HM Revenue & Customs using Forms P35 and P14 after the end of the tax year, or to send Forms P45 or P46 to HMRC when employees start or leave a job. Please see the relevant section of the guidance for alternative documents for employers involved in the pilot scheme.

HM Revenue & Customs requires an employer to keep the P11 for at least three years. P11 will be renamed as the Employee Payment Record following the introduction of the RTI. This record will show details of the earnings for the employee for each week that he/she worked for the employer.

If you employ more workers but do not use their employment to support their claim of points, you 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

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>

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.

A31. 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

A32. In order to qualify for points the post must be created as a result of your contribution to the United Kingdom economy. The posts you have created or have been created by your business, must be new posts.

A33. If you are joining an existing business you must create posts as a result of your contribution. When awarding points, we will only accept evidence of posts created after the date that you started work in the business.

A34. Form P11 provides evidence of the dates of employment of the worker. You 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

A35. 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)

A36. You 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. You should contact the Department for Business, Innovation and Skills (www.bis.gov.uk) with any queries on legal requirements.

Legal representative

A37. 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 practise law, conduct lawsuits or give legal advice.

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

What is notarisatation?

A38. Notarisatation 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 notarisatation should include a notary's signature and an official stamp.

What is the specified date?

A39. A Tier 1 (Entrepreneur) must have met the conditions of the category within six months (26 weeks) of either:

- The date of your entry to the UK if you were granted entry clearance as a Tier 1 (Entrepreneur) Migrant and where there is evidence to establish the date of your entry to the UK; or
- The date of your grant of entry clearance, if you were granted entry clearance as a Tier 1 (Entrepreneur) Migrant and where there is no evidence to establish the date of your entry to the UK; or
- The date of the your grant of leave to remain , in any other case.

This does not apply where your last grant of leave prior to the grant of leave that you currently have was as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.

Where you have been found not to have fulfilled one or more of the following within six months of

the specified date you may have their leave curtailed:

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

Entrepreneurial teams

A43. You may claim points for the same investment and business activity with another person if you have formed an entrepreneurial team. In this case you must both 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 of the team members 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.

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 you. For time limits for making a request, see further paragraphs 6 and 7 below.

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

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

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

3. Who conducts the Administrative

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

4. Who can apply for Administrative Review?

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

5. How does the applicant apply?

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

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

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

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

You have 28 days from the date of receipt of the refusal notice, to submit a request for Administrative Review.

7. What if an application is submitted late?

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

If the Administrative Review request is late and the administrative reviewer decides not to perform the Administrative Review, the request notice will be returned to you with a letter explaining why it is not being accepted.

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

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

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

If you have new or further information, documents or other paperwork that you failed to submit with your original application, you will need to make a new application and pay the appropriate fee.

9. How long will the Administrative Review take?

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

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

10. What will the administrative reviewer look at?

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

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

Any new evidence you submit will be returned to you together with the outcome of the Administrative Review.

11. How are Administrative Review decisions made?

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

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

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

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

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

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

12. Does Administrative Review cover General Grounds for Refusal?

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

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

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

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

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

13. Does Administrative Review cover verification?

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

14. What are the possible outcomes of Administrative Review?

There are three possible outcomes of Administrative Review:

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

15. How are you informed of the result of the Administrative Review?

Decision upheld and the reasons for refusal remain the same:

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

Decision upheld but with revised reasons for refusal:

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

Decision overturned and entry clearance to issue:

- The administrative reviewer will notify you by letter and request your passport.

16. Limited Right of Appeal

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

1. What may be checked?

We may want to check the supporting documents you send with your application. Therefore, you must ensure that all the evidence comes from a source that can be clearly identified and that it can be independently confirmed as being genuine.

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

2. When will verification checks be made?

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.

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.

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 you to claim those points.

3. When will other checks be made?

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.

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.

4. What are the possible outcomes of checks?

There are four possible outcomes of a check:

- **Document confirmed as genuine.** If we conclude that the document is genuine, we will consider the application as normal.
- **Document confirmed as false.** If we 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 you send us a bank statement to show that you have enough funds available, and we have evidence that the statement is false, we will refuse the application because you do not meet the funds requirement and because you have sent a false document. Where we confirm that a document is false it will be retained by the UK Border Agency and is likely to jeopardise any future application.
- **Check inconclusive (verification checks).** If we cannot verify that the document is either genuine or false then we will ignore it as evidence for scoring points. If you have sent other specified documents as evidence for scoring the relevant points, we will consider these as normal. If you have not sent any other documents, we will award zero points in that area.
- **Check inconclusive (other checks).** 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 (other checks).** If we cannot determine 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.

5. When would an application be refused without making verification checks?

We may refuse an application without making verification checks where:

- We are concerned about a piece of evidence but would in any event refuse the application for other reasons, those reasons will form the basis of the refusal. We will not make verification checks in these circumstances. However, we will always verify passports if we doubt they are genuine.
- There is evidence that proves a particular document is false without verification checks.

6. What is the procedure for verification and other checks?

The procedures for both verification checks and other checks 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.

We record the results of our enquiries.

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.

Our compliance team may visit your employer or educational institution (if you are a student) before we make a decision on the application.

Annex D - Additional evidence for sponsored students

1. For the purposes of this section of the guidance, 'sponsored' means 'wholly supported by an award that covers both fees and living costs'.
2. If you have had permission to be in the United Kingdom in one of the following categories, within the last 12 months, you may have been sponsored in your 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.
3. If you are currently sponsored by a Government or an international scholarship agency, or such sponsorship ended within the past 12 months of this application being made, you must provide us with the sponsor's unconditional consent in writing to us, giving you their 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.
4. 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.
5. If you have received private sponsorship during your studies (for example from an employer or relative), we do not require the sponsor's consent.
6. 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>

Annex E - 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 |
|---------------------------------|---|-----------------|--|---|
|---------------------------------|---|-----------------|--|---|

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.