

STATEMENT OF INTENT: CHANGES AFFECTING STUDY, POST-STUDY WORK AND MAINTENANCE REQUIREMENTS FOR STUDENTS AND WORKERS



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Introduction

On 22 March 2011, the Home Secretary announced the Government's plans to make changes to Tier 4 (Students) and Tier 1 (Post Study Work) of the points-based system. Further detail was given in a Statement of Intent published on 31 March. These changes have been introduced over a period of time in order to allow the sectors time to adjust. The first round of implementation, including interim measures, came into effect on 21 April 2011. Further changes took effect from 4 July 2011. The third set of changes will have effect from 6 April 2012. The relevant Immigration Rules will be laid on 15 March.

This new Statement provides further information on how the changes due to come into effect from April will operate. These concern the time that can be spent studying in Tier 4; work placements in Tier 4; and staying in the UK to work after completion of a course of study. In addition we are providing for an extension, where necessary, of the interim limit on confirmations of acceptance for studies allocated to certain sponsors; we are ending a transitional measure on English language requirements; and we are making changes to the maintenance levels which students and workers must show before obtaining a visa and the amount that can be paid as an accommodation deposit. Furthermore we are opening a new route for graduate entrepreneurs.

Separately the Government is also preparing further changes to the Immigration Rules concerning employment related settlement; overseas domestic workers; and Tiers 2 and 5 of the points-based system following recent consultations by the Home Office and the Migration Advisory Committee. Separate announcements regarding these changes, which are also planned for April, will be made as soon as possible. Changes to the Family Route will also be announced in due course.

The measures outlined in this Statement should not be seen as a definitive account of the requirements that will apply in future. The definitive version will be set out in the Immigration Rules and published formal Guidance for Tier 4 sponsors and applicants. The Statement does, however, represent the Government's current intentions.

The Government will review the impact of the changes and, if necessary, make further changes in order to control immigration and reduce net migration to sustainable levels.

Interim Limit

In April 2011 we introduced more rigorous requirements for Tier 4 sponsors, to drive up standards of educational quality and immigration compliance. To continue to be permitted to recruit international students, all sponsors must become Highly Trusted and pass an inspection of their educational provision by a designated independent body.

For a transitional period, while these inspections take place, sponsors not meeting the new requirements are subject to an interim limit on the number of Confirmations of Acceptance of Studies (CAS) they can issue. The limit will be removed, on a sponsor by sponsor basis, once a sponsor satisfies the new requirements.

An initial allocation of CAS under the interim limit was granted in April 2011. From April 2012 a further allocation will be made to those sponsors that applied for Highly Trusted Sponsor (HTS) status and educational oversight by the specified deadlines, but have yet to be assessed and who therefore remain subject to the interim limit. This additional allocation will cover the nine-month period to the end of December 2012 by which time all inspections will be complete. The allocation will be the same as that for 2010/11, abated to take account of the shorter period. Affected sponsors will therefore be granted additional CAS equivalent to three-quarters of their CAS allocation for the first year under the interim limit.

The Home Office will notify sponsors of the requirements for subsequent inspections from 2013 in due course.

Maximum time in Tier 4 at degree level

We announced last March that, from April 2012, we will limit to five years the time that can be spent studying under Tier 4 at degree level. We have subsequently worked with the sector on the details of this policy to ensure it does not bite unreasonably on certain courses.

There will be a general limit of 5 years on study-time at level NQF6/QCF 6 and SCQF 9 and above, but this will not apply:

- To those studying for Master's degrees at an Higher Education Institution (HEI)¹, following successful completion of an undergraduate degree where the course duration was 4 or 5 years. For these students the limit will be set at 6 years in total instead of 5. This will cover the typical situation in Scottish universities (but applies also to the rest of the UK).
 - To those studying for a PhD at an HEI. However if on completion of the PhD the time spent in Tier 4 (General) exceeds 8 years, no further leave will be granted in Tier 4.
- For the following courses:
 - Architecture;
 - Medicine;
 - Dentistry;
 - Veterinary Medicine & Science;
 - Law (those studying a Graduate Diploma in Law, a Legal Practice Course, the Bar Professional Training Course or for the Common Professional Examination);
 - Music studied at a Conservatoire.

The 5 year limit, and exceptions, will operate in addition to time permitted in Tier 4 (General) at below degree level (3 years) and any time spent in the Tier 4 (Child) route. The limit will consider study time, and will not count the additional periods of leave granted outside of course durations.

SCENARIOS

The following series of course combinations would be permitted under the new arrangements:

2 years studying A levels (as an adult student), followed by 4 years studying a Bachelor's degree in Engineering, followed by 2 years studying a research or professional Master's degree at an HEI (followed by a PhD at an HEI)
1 year studying a foundation programme, followed by 4 years studying a Bachelor's degree, followed by 2 years studying a Master's degree at an HEI
2 years studying a Scottish HND, followed by 2 years studying a Scottish Honours degree, followed by 2 years studying a Master's degree at an HEI
3 years studying a university validated degree at a private college, followed by a 1 or 2 year Master's at an HEI or private college
5 years studying an undergraduate degree followed by a 3 year Master's degree in music at a Conservatoire

1 A higher education institution (HEI) is a 'recognised body' (meaning that it has its own UK degree-awarding powers), or a body in receipt of public funding as a HEI. Institutions (including further education colleges) which receive some public funding to deliver higher education courses do not fall within this definition of an HEI.

The following series of course combinations would not be permitted under the new arrangements:

2 years studying at NQF 3, followed by more than 1 year studying at NQF 5
3 years studying at NQF 3, followed by 3 years on an NQF 6 course, followed by a further 3 year course at NQF 6
An NQF6 accountancy course lasting more than 5 years
4 years studying an undergraduate degree, followed by a 2 year post graduate management qualification at a private college

The time limits, together with the rules on academic progression, and the closure of the Post Study Route, will ensure that student visas are not exploited as a means to remain in the UK indefinitely and without genuine academic intentions.

Work placements

As announced in March 2011, from 6 April 2012 we will change the rules on work placements for international students who are not studying at degree level or above at an HEI. From that date, at least two thirds of a course must comprise formal study, with a maximum of one third of course time spent on a work placement. The minimum study time will remain 15 hours per week. The work placement could therefore be 5 hours with 10 classroom hours, or it can be 1 year with 2 years of classroom study.

For those studying at degree level or above at an HEI, or those on a course as part of a study abroad programme, we will retain the current study to work ratio at 50:50 requiring that at least half the time comprises formal study and at most half the time is spent on a work placement. We will also retain the current exemption for courses where there is a statutory requirement for a longer work placement, such as in medicine.

English language requirements for pre-sessional courses

The English language rules will remain unchanged except for the ending of a transitional concession in respect of pre-sessional courses for those students with an unconditional offer for a degree level course at an HEI. The rules permit such students who do not have B2 level English to be issued a single CAS to attend a pre-sessional followed by the main course, provided they have attained B1 level, as attested by possession of a B1 SELT certificate. The concession waived the B1 SELT requirement where the HEI had carried out its own assessment. From 6 April this concession will no longer apply, so that the B1 SELT will be a pre-condition of attendance on a pre-sessional linked to the main course on a single CAS.

The previously announced English language rules will apply, in summary that B1 with a SELT certificate from a body approved by the UK Border Agency is required for study below degree level (NQF 6); and B2 with a SELT at degree level and above. For those studying at degree level at an HEI, the HEI may make its own assessment of B2 competency rather than relying on a SELT. Those studying English language must have B1 level, with a SELT certificate. B1 and B2 standard must be attained in all the component elements of the test (reading, writing, speaking, and listening). Students may be refused a visa if they cannot speak English without assistance.

Working whilst on a student visa

We do not intend to change the current rules on students' permission to work

If a student is allowed to work, the work they do must not fill a full-time permanent vacancy (other than on a recognised Foundation Programme), and they must not be self-employed, employed as a doctor in training (except on a recognised Foundation Programme) or as a professional sportsperson, coach or entertainer.

However they can work full-time, within the specified limits, during vacations and following completion of their course. Where they apply to remain in the UK before their existing permission to stay expires, they can work full-time (within the above limits) until the application is decided.

Staying to work in the UK

Tier 1 (Post Study Work) will close to new applicants on 5 April 2012. In its place will be new, more selective arrangements to enable the brightest and best graduates to stay and work in the UK.

We will introduce new provisions under Tier 2 (General) for graduates who would previously have been eligible under Tier 1 (Post Study Work). Tier 2 (General) will be open to recent graduates with a Bachelor's or Master's degree, PhD, or a PGCE or PGDE, from a UK recognised or listed body. As per the normal Tier 2 requirements, applicants must have an offer of a skilled job from a licensed sponsor and be paid at least £20,000 or the minimum appropriate rate set out in the relevant Code of Practice. However, the employer will not have to complete a resident labour market test and the jobs will not be subject to the annual limit on Tier 2 numbers (i.e. the Certificates of Sponsorship will be in the Unrestricted category). The Home Office will monitor the numbers switching. We intend to commission the Migration Advisory Committee to review the appropriate rates in the Codes of Practice to ensure they are up to date.

Migrants using this route will be able to sponsor new dependants, on the same terms as other Tier 2 migrants. They may continue to sponsor any dependants whom they sponsored as a Tier 4 migrant. This is a change from the policy proposals set out in our March 2011 Statement of Intent. Tier 4 Dependants will continue to be able to switch into Tier 2 employment in their own right, but will be subject to the Tier 2 limit.

Tier 4 migrants will be able to switch into Tier 2, as described above, once they have been awarded their qualification. In-country switching from Tier 4 to Tier 2 will not be permitted for those who have not completed their studies, except for PhD students who, as now, must have completed at least 12 months of study.

Graduate entrepreneurs

A migrant who wishes to switch to Tier 2 from Tier 4 may start work as a student with the Tier 2 employer if their Tier 4 leave is still valid and allows them to work. The employers should however not offer a permanent contract until the Tier 2 application is approved.

If a migrant wishes to undertake a period of professional training following a course of study in order to obtain a professional qualification, this can be done by switching into Tier 2. If this is not possible, the relevant sector body may seek to establish a dedicated scheme within Tier 5 (Government Authorised Exchange) to allow further training prior to return overseas. It is not possible to switch from Tier 5 to Tier 2, but we will make provision for switching from Tier 4 to Tier 5 (Government Authorised Exchange) to allow this professional training to take place.

We said in March 2011 that we would ensure there was a place in the migration system for those students who have developed world class innovative ideas and who want to stay to develop their business in Britain. We have worked with the university sector to develop an appropriate route. We will introduce a new Tier 1 (Graduate Entrepreneur) scheme for those who have been identified by UK universities as having developed world class innovative ideas or entrepreneurial skills, but who are not yet in a position to meet the full requirements of the Tier 1 (Entrepreneur) route. This will allow them to develop their businesses in the UK.

The scheme will be open to all HEIs which are Highly Trusted Sponsors for the purposes of Tier 4 of the points-based system, and A Rated for the purposes of Tier 2 if such a licence is held. The HEI must:

- have an established process for identifying, nurturing and developing entrepreneurs amongst their undergraduate and post graduate population;
- maintain contact with migrants and assess their progress at regular intervals (at least quarterly); and
- inform the UK Border Agency if migrants are no longer participating in the scheme.

Applicants will need to be in the UK and sponsored by the HEI from which they have graduated. We will give HEIs the freedom to decide how to best identify the strongest candidates, but there will be an overall limit of 1,000 places for the first year. This limit will be divided equally between participating HEIs.

Successful applicants will be granted leave for 12 months initially, which may be extended for a further 12 months, providing the sponsoring HEI is satisfied with the progress they have made. They will be expected to spend the majority of their time developing their businesses, but may also undertake other work for up to 20 hours a week to support themselves. They will be able to sponsor dependants provided they meet the Tier 1 maintenance requirements.

Maintenance requirements

Time in this category will not count towards the qualifying period for settlement in the UK. At the end of the second year in this category, migrants must either switch into Tier 1 (Entrepreneur) or leave the UK. We will lower the funds required to switch into the main Tier 1 (Entrepreneur) route for this group, from £200,000 to £50,000. We will also apply this lower threshold to migrants who are currently in Tier 1 (Post-Study Work) and have established their own business in the UK.

The UK Border Agency will not second-guess HEIs' choice of graduate entrepreneurs they wish to sponsor (beyond the application the normal General Grounds for Refusal for those with an adverse immigration or security history, and the need to satisfy Tier 1 English language and maintenance requirements). We also recognise that an idea may not be developed successfully. In that case the migrant will leave the UK and the HEI will not be penalised in any way. If on the other hand the HEI does not comply with its responsibilities under this route, this will count against the HEI's Highly Trusted Sponsor status.

The UK Border Agency will announce in due course a process and deadline by which HEIs who wish to participate in the scheme should register. The allocation of 1000 places will then be distributed.

Migrants in the points-based system have to demonstrate they can support themselves by showing they hold prescribed amounts of maintenance funds. These amounts have not been changed since the start of the points-based system in 2008. From April 2012 we will increase the required amount of funds to reflect the cost of living in the UK. In future we propose to review the maintenance requirements annually. For the majority of routes the increase in the required amounts is in line with the effect of inflation since 2008. The requirements concerning the manner in which funds must be held, and the time periods, will not change, only the minimum amounts.

EMPLOYMENT ROUTES

From April 2012, applicants for Tier 1 Entrepreneurs and Graduate Entrepreneurs, and legacy Tier 1 (General) cases will be required to show:

- £3,100 for entry clearance applications
- £900 for leave to remain applications

As at present, Tier 1 (Investor) and Tier 1 (Exceptional Talent) migrants and their dependants will be exempt from the maintenance requirement.

Tier 2 and Tier 5 migrants will be required to show funds of £900. As at present, if they have an A-rated Sponsor, the Sponsor may certify maintenance for them.

Tier 1, Tier 2 and Tier 5 dependants will be required to show:

- £1,800 for dependants of migrants who have been in the UK for less than 12 months
- £600 for all other dependants

Category	Existing level of funds required	New level of funds required
Tier 1 Migrants	<ul style="list-style-type: none"> • £2,800 for entry clearance applications • £800 for leave to remain applications 	<ul style="list-style-type: none"> • £3,100 for entry clearance applications • £900 for leave to remain applications
Tier 2 Migrants and Tier 5 (Temporary Worker) Migrants	<ul style="list-style-type: none"> • £800 	<ul style="list-style-type: none"> • £900
Tier 5 (Youth Mobility Scheme) Migrants	<ul style="list-style-type: none"> • £1,600 	<ul style="list-style-type: none"> • £1,800
Dependants of Tier 1, 2 and 5 Migrants	<ul style="list-style-type: none"> • £1,600 for dependants of Tier 1 Migrants who have been in the UK for less than 12 months • £533 for all other applicants 	<ul style="list-style-type: none"> • £1,800 for dependants of Tier 1 Migrants who have been in the UK for less than 12 months • £600 for all other applicants

TIER 4 (GENERAL) STUDENTS

For Tier 4 (General) we shall bring the requirement in line with the maximum living costs loan and grant support available for new English domiciled students starting full-time higher education courses from September 2012. We believe this is the best current benchmark for the cost of students living and studying in the UK.

From April 2012, Tier 4 (General) applicants will be required to show:

- £1000 for each month of the course up to a maximum of nine months (in inner London); or
- £800 for each month of the course up to a maximum of nine months (elsewhere).

Dependants of Tier 4 (General) students will be required to show:

- £600 per month, up to a maximum of nine months (in inner London); or
- £450 per month, up to a maximum of nine months (elsewhere).

TIER 4 (CHILD) STUDENTS

For Tier 4 (Child) students the increase will be in line with the effect of inflation.

From April 2012, Tier 4 (Child) applicants will be required to show:

- where the child will be studying at a non-residential independent school and is in a private foster care arrangement or staying with and cared for by a close relative - **£550 per month**, for up to a maximum of 9 months,

- Where the child will be studying at a non-residential independent school, is under the age of 12 and will be accompanied by a parent - **£1500 per month**, plus £600 per month for any additional child accompanying the applicant and the parent, up to a maximum of 9 months.
- Where the child is aged 16 or 17 years old and is living independently and studying in inner London- **£900 per month** of the course up to a maximum of 9 months, or 2 months if the applicant has an established presence
- Where the child is aged 16 or 17 years old, is living independently and studying in outer London or elsewhere in the UK - **£700 per month** of the course up to a maximum of 9 months, or 2 months if the applicant has an established presence

Where the Tier 4 (child) student will be studying at a residential independent school the requirement remains that sufficient funds must be available to the applicant to pay boarding fees (being course fees plus board/lodging fees) for an academic year

As now, all Tier 4 applicants will in addition have to show they have funds amounting to the full course fees for the first academic year of the course, or for the entire course if it is less than a year long.

SUMMARY

Category	Existing level of funds required	New level of funds required
Tier 4 (General) Students	<ul style="list-style-type: none"> • Inner London - £800 per month, up to a maximum of 9 months (£7,200), or 2 months if the applicant has an established presence (£1,600) • Outer London / rest of UK - £600 per month, up to a maximum of 9 months (£5,400), or 2 months if the applicant has an established presence (£1,200) 	<ul style="list-style-type: none"> • Inner London - £1,000 per month, up to a maximum of 9 months (£9,000), or 2 months if the applicant has an established presence (£2,000) • Outer London / rest of UK - £800 per month, up to a maximum of 9 months (£7,200), or 2 months if the applicant has an established presence (£1,600)
Dependants of Tier 4 (General) Students	<ul style="list-style-type: none"> • Inner London - £533 per month, up to a maximum of 9 months (£4,797), or 2 months if the applicant has an established presence (£1,066) • Outer London / rest of UK - £400 per month, up to a maximum of 9 months (£3,600), or 2 months if the applicant has an established presence (£800) 	<ul style="list-style-type: none"> • Inner London - £600 per month, up to a maximum of 9 months (£5,400), or 2 months if the applicant has an established presence (£1,200) • Outer London / rest of UK - £450 per month, up to a maximum of 9 months (£4,050), or 2 months if the applicant has an established presence (£900)
Tier 4 (Child) Students - Where the child will be studying at a non-residential independent school and is in a private foster care arrangement or staying with and cared for by a close relative	<ul style="list-style-type: none"> • £500 per month, for up to a maximum of 9 months (£4,500) 	<ul style="list-style-type: none"> • £550 per month, for up to a maximum of 9 months (£4,950)
Tier 4 (Child) Students - Where the child will be studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent	<ul style="list-style-type: none"> • £1333 per month, plus £533 per month for any additional child accompanying the applicant and the parent, up to a maximum of 9 months (£11,997 for the student and parent plus £4,797 for any additional child) 	<ul style="list-style-type: none"> • £1500 per month, plus £600 per month for any additional child accompanying the applicant and the parent, up to a maximum of 9 months (£13,500 for the student and parent plus £5,400 for any additional child)
Tier 4 (Child) Students - Where the child is aged 16 or 17 years old and is living independently and studying in inner London	<ul style="list-style-type: none"> • £800 per month of the course up to a maximum of 9 months (£7,200), or 2 months if the applicant has an established presence (£1,600) 	<ul style="list-style-type: none"> • £900 per month of the course up to a maximum of 9 months (£8,100), or 2 months if the applicant has an established presence (£1,800)
Tier 4 (Child) Students - Where the child is aged 16 or 17 years old, is living independently and studying in outer London or elsewhere in the UK	<ul style="list-style-type: none"> • £600 per month of the course up to a maximum of 9 months (£5,400), or 2 months if if the applicant has an established presence (£1,200) 	<ul style="list-style-type: none"> • £700 per month of the course up to a maximum of 9 months (£6,300), or 2 months if the applicant has an established presence (£1,400)

ACCOMMODATION DEPOSITS

Money paid as an accommodation deposit can be offset against the maintenance requirements, but at present there is no upper limit on the amount that can be paid as a deposit. This leaves students vulnerable to being required to pay a full year's accommodation fee up front, before they have obtained a visa. It is also a possible means of circumvention of the maintenance requirement by overstating the amounts paid, and then only having to demonstrate minimal residual funds. We therefore will set a maximum amount of £1,000 that can be offset against maintenance funds. This will minimise the risk of abuse, protect students from unscrupulous providers and also lower the risk of students losing their money in the event of the college closing.



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