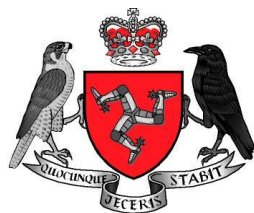


Statutory Document 0625/12



**STATEMENT OF**

**CHANGES**

**IN IMMIGRATION RULES**

Laid before Tynwald on 16 October 2012 under section 3(2) of the  
Immigration Act 1971 (an Act of Parliament as extended to the Isle of Man by the  
Immigration (Isle of Man) Order 2008 (SI 2008 no. 680))

## STATEMENT OF CHANGES IN IMMIGRATION RULES

The Council of Ministers has made the following changes to the Rules laid down by it as to the practice to be followed in the administration of the Immigration Act 1971<sup>1</sup> (of Parliament) as it has effect in the Isle of Man<sup>2</sup> for regulating entry into and the stay of persons in the Isle of Man and contained in the Statement laid before Tynwald on 17<sup>th</sup> May 2005<sup>3</sup>.

The changes in this Statement shall take effect on 1<sup>st</sup> October 2012. However, if an applicant has made an application for entry clearance or leave before 1<sup>st</sup> October 2012 and the application has not been decided before that date, it will be decided in accordance with the rules in force on 1<sup>st</sup> October 2012.

### Changes

1. For "Department of Trade and Industry", wherever occurring, substitute "Department for Economic Development".

2. Paragraph 6 is amended as follows -

a) delete the definitions from the definition of "Tier 1 (General) Migrant" to the definition of "Tier 2 Migrant" and substitute -

**"Points Based System Migrant"** means a migrant applying for or granted leave as a Tier 1 Migrant, a Tier 2 Migrant, a Tier 4 Migrant or a Tier 5 Migrant.

**"Tier 1 Migrant"** means a migrant who is granted leave as a a Tier 1 (General) Migrant, a Tier 1 (Entrepreneur) Migrant, a Tier 1 (Investor) Migrant, a Tier 1 (Graduate Entrepreneur) Migrant or a Tier 1 (Post-Study Work) Migrant.

**"Tier 1 (General) Migrant"** means a migrant who is granted leave under paragraphs 245C to 245CE of these Rules.

**"Tier 1 (Entrepreneur) Migrant"** means a migrant who is granted leave under paragraphs 245D to 245DF of these Rules.

**"Tier 1 (Investor) Migrant"** means a migrant who is granted leave under paragraphs 245E to 245EF of these Rules.

---

<sup>1</sup> 1971 c. 77

<sup>2</sup> See the Immigration (Isle of Man) Order 2008 (S.I. 2008 No 680)

<sup>3</sup> S.D. 62/05 amended by S.D.692/05, S.D. 442/06, S.D. 547/06, S.D. 781/06, S.D. 871/06, S.D. 124/07, S.D. 303/07, S.D. 534/07, S.D. 02/08, S.D. 500/08, GC 32/09, GC 35/09, GC 14/10, GC 26/10, GC 02/11, SD 518/11, SD 40/12 and SD 0288/12.

"**Tier 1 (Graduate Entrepreneur) Migrant**" means a migrant who is granted leave under paragraphs 245F to 245FB of these Rules in place on or after 1<sup>st</sup> October 2012.

"**Tier 1 (Post-Study Work) Migrant**" means a migrant who is granted leave under paragraphs 245F to 245FE of the Rules in place before 1<sup>st</sup> October 2012.

"**Tier 2 Migrant**" means a migrant who is granted leave as a Tier 2 (Intra-Company Transfer) Migrant, a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant.

"**Tier 2 (Intra-Company Transfer) Migrant**" means a migrant granted leave under paragraphs 245G to 245GF of these Rules.

"**Tier 2 (General) Migrant**" means a migrant granted leave under paragraphs 245H to 245HF of these Rules and who obtains points under paragraphs 76 to 84A of Appendix A.

"**Tier 2 (Minister of Religion) Migrant**" means a migrant granted leave under paragraphs 245H to 245HF of these Rules and who obtains points under paragraphs 85 to 92 of Appendix A.

"**Tier 2 (Sportsperson) Migrant**" means a migrant granted leave under paragraphs 245H to 245HF of these Rules and who obtains points under paragraphs 93 to 100 of Appendix A."

b) after the definition of "Tier 5 Migrant", insert -

"Under Part 6A of these Rules "**Government Authorised Exchange Scheme**" means a scheme under the Tier 5 (Temporary Worker) Government Authorised Exchange sub-category which is endorsed by a Government Department in support of Government objectives and provides temporary work in an occupation which appears on the list of occupations skilled to National Qualifications Framework level 3, as stated in the codes of practice for Tier 2 Sponsors published by the Department for Economic Development, and where the migrant will be supernumerary.

Under Part 6A of these Rules "**Work Experience Programme**" means work experience including volunteering and job-shadowing, internships and work exchange programmes under a Government Authorised Exchange Scheme.

Under Part 6A of these Rules "**Research Programme**" means research programmes and fellowships under a Government Authorised Exchange Scheme where the migrant is working on a scientific, academic, medical, or government research project/s at either an Isle of Man Higher Education Institution or another research institution operating under the authority and/or financial sponsorship of a relevant Government Department.

Under Part 6A of these Rules, "**Temporary Engagement as a Sports Broadcaster**" means providing guest expert commentary on a particular sporting event."

c) After the definition of “special visitor” insert -

“**A visitor undertaking permitted paid engagements**” is someone who is granted leave to enter under paragraphs 56X- 56Z of these Rules.”.

3. In paragraph 46M (iii)(d) after “(c)” insert - “, or attending the same event as a sports-person carrying out permitted paid engagements as a visitor”.

4. In paragraph 46S(iii)(d) after “(c)” insert - “ , or attending the same event as an entertainer carrying out permitted paid engagements as a visitor”.

5. After paragraph 56W, insert -

**“Visitors undertaking permitted paid engagements**

**Requirements for leave to enter as a visitor undertaking permitted paid engagements**

56X. The requirements to be met by a person seeking leave to enter the Isle of Man as a visitor undertaking permitted paid engagements are that the applicant:

i. is genuinely seeking entry as a visitor undertaking a permitted paid engagement for a limited period, not exceeding one month; and

ii. meets the requirements of paragraphs 41(ii), (v), (vii), (viii), (x) – (xii); and

iii. intends to do one of the following pre-arranged permitted paid engagements which can be evidenced by a formal invitation, and can show that the engagement relates to his or her area of expertise and/or qualifications, and full time occupation overseas:

a) examine students and/or participate in or chair selection panels as a visiting academic, who is highly qualified within his or her own field of expertise, invited by an Isle of Man Higher Education Institution or an Isle of Man based research or arts organisation as part of that institution or organisation’s quality assurance processes;

b) give one or more lectures in his or her field of expertise as a visiting lecturer, invited by an Isle of Man Higher Education Institution or an Isle of Man based research or arts organisation;

c) as an overseas designated pilot examiner, assess Isle of Man based pilots to ensure they meet the national aviation regulatory requirements of other countries, by invitation of an approved training organisation based in the

United Kingdom or Isle of Man that is regulated by the United Kingdom Civil Aviation Authority for that purpose;

d) provide advocacy in a particular area of law as a qualified lawyer for the purposes of a court or tribunal hearing, arbitration or other form of alternative dispute resolution for legal proceedings within the Isle of Man, at the invitation of a client in the Isle of Man or foreign based client;

e) undertake an activity relating to the arts, entertainment or sporting professions, by invitation of an arts or sports organisation or broadcaster based in the Isle of Man; and

iv. does not intend to take employment, produce goods or provide services within the Isle of Man, including the selling of goods or services direct to members of the public other than as permitted for by the pre-arranged paid engagement; and

v. will maintain and accommodate him or herself adequately out of resources available to the applicant without recourse to public funds or taking employment; or will be maintained and accommodated adequately by relatives or friends.

#### **Leave to enter as a visitor undertaking permitted paid engagements**

56Y. A person seeking leave to enter the Isle of Man as a visitor undertaking permitted paid engagements may be admitted for a single entry and for a period not exceeding 1 month, provided the Immigration Officer is satisfied that each of the requirements of paragraph 56X are met.

#### **Refusal of leave to enter as a visitor undertaking permitted paid engagements**

56Z Leave to enter as a visitor undertaking permitted paid engagements is to be refused if the Immigration Officer is not satisfied that each of the requirements at paragraph 56X are met.”.

6. Delete paragraphs 69P to 69R.
7. In paragraph 79 (iii), delete “is unmarried,” and insert - “is not married or in a civil partnership,”.
8. In paragraph 79A, after “Both of the applicant's parents must either be lawfully present in the Isle of Man, or being granted entry clearance or leave to remain at the same time as the applicant”, insert “or one parent must be lawfully present in the Isle of Man and the other being granted entry clearance or leave to remain at the same time as the applicant,”.
9. Delete paragraphs 128 to 130 and substitute: -

“128. A person coming to the Isle of Man to seek or take employment must be otherwise eligible for admission under these Rules or eligible for admission as a seaman under contract to join a ship due to leave Isle of Man waters.

The requirements for applications for work permit employment set out in paragraphs 131 to 133 of these Rules were deleted on 26 July 2010 by Statement of Changes GC 26/10 except insofar as relevant to paragraphs 134 to 135.”.

10. Delete Paragraph 159A and substitute -

“159A. The requirements to be met by a person seeking leave to enter the Isle of Man as a domestic worker in a private household are that the applicant:

- (i) is aged 18-65 inclusive; and
- (ii) has been employed as a domestic worker for one year or more immediately prior to the application for entry clearance under the same roof as the employer or in a household that the employer uses for himself on a regular basis and where evidence in the form set out in guidance published by the Isle of Man Immigration Office is produced to demonstrate the connection between employer and employee; and
- (iii) intends to work for the employer whilst the employer is in the Isle of Man and intends to travel in the company of either;
  - (a) a British or EEA national employer, or that employer’s British or EEA national spouse, civil partner or child, where the employer’s usual place of residence is outside the Isle of Man and where the employer does not intend to remain in the Isle of Man beyond six months; or
  - (b) a British or EEA national employer’s foreign national spouse, civil partner or child where the employer does not intend to remain in the Isle of Man beyond six months; or
  - (c) a foreign national employer or the employer’s spouse, civil partner or child where the employer is seeking or has been granted entry clearance or leave to enter under Part 2 of these Rules; and
- (iv) intends to leave the Isle of Man at the end of six months in the Isle of Man or at the same time as the employer, whichever is the earlier; and
- (v) has agreed in writing terms and conditions of employment in the Isle of Man with the employer, as specified in guidance published by the Isle of Man Immigration Office, including specifically that the applicant will be paid in accordance with the Minimum Wage Act 2001

(of Tynwald)<sup>4</sup> and any Regulations made under it, and provides this with the entry clearance application; and

(vi) will not take employment other than within the terms of this paragraph to work full time as a domestic worker for the employer in a household that the employer intends to live in; and

(vii) can maintain and accommodate him or herself adequately without recourse to public funds; and

(viii) holds a valid entry clearance for entry in this capacity.”.

11. In paragraph 159B delete “12” and substitute: “6”.

12. Delete paragraph 159D and its accompanying heading and substitute -

**“Requirements for extension of stay as a domestic worker in a private household**

159D. The requirements for an extension of stay as a domestic worker in a private household are that the applicant:

(i) entered the Isle of Man with a valid entry clearance as a domestic worker in a private household; and

(ii) was granted less than 6 months leave to enter in this capacity; and

(iii) has continued to be employed for the duration of leave granted as a domestic worker in the private household of the employer with whom the applicant entered or joined in the Isle of Man; and

(iv) continues to be required for employment for the period of the extension sought as a domestic worker in a private household that the employer lives in; and

(v) does not intend to take employment except as a domestic worker in the private household of the employer; and

(vi) meets the requirements of paragraph 159A (iv) and (vii).”.

13. Delete paragraph 159E and its accompanying heading and substitute -

**“Extension of stay as a domestic worker in a private household**

159E. An extension of stay as a domestic worker in a private household may be granted for a period of six months less the period already spent in the Isle of Man in this capacity.

---

<sup>4</sup> c25 2001

**Requirements for extension of stay as a domestic worker in a private household for applicants who entered the Isle of Man under the Rules in place before 1<sup>st</sup> October 2012**

159EA. The requirements for an extension of stay as a domestic worker in a private household for applicants who entered the Isle of Man under Rules in place before 1<sup>st</sup> October 2012 are that the applicant:

- (i) entered the Isle of Man with a valid entry clearance as a domestic worker in a private household under Rules in place before 1<sup>st</sup> October 2012; and
- (ii) has continued to be employed for the duration of leave granted as a domestic worker in a private household; and
- (iii) continues to be required for employment for the period of the extension sought as a domestic worker in a private household under the same roof as the employer or in the same household that the employer has lived in and where there is evidence that there is a connection between employer and employee; and
- (iv) does not intend to take employment except as a domestic worker in a private household; and
- (v) meets the requirements of paragraph 159A (i) and (vii).

**Extension of stay as a domestic worker in a private household for applicants who entered the Isle of Man under the Rules in place before 1<sup>st</sup> October 2012**

159EB. An extension of stay as a domestic worker in a private household may be granted for a period not exceeding 12 months at a time provided the Lieutenant Governor is satisfied that each of the requirements of paragraph 159EA are met.”.

14. In paragraph 159F, delete “paragraph 159D is met” and insert “either paragraph 159D or, where applicable, paragraph 159EA, is met”.

15. Delete paragraph 159G and insert –

“159G. The requirements for indefinite leave to remain as a domestic worker in a private household are that the applicant:

- (i) entered the Isle of Man with a valid entry clearance as a domestic worker in a private household under the Rules in place before 1<sup>st</sup> October 2012; and
- (ii) has spent a continuous period of 5 years in the Isle of Man employed in this capacity; and
- (iii) has met the requirements of paragraph 159A (vi) and (vii) throughout the 5 year period; and



(iv) continues to be required for employment as a domestic worker in a private household as certified by the current employer; and

(v) has sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom and Islands, in accordance with paragraph 33B of these Rules, unless they are under 18 or over 65 at the time the application is made; and

(vi) does not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 1974.”.

16. After the heading below Paragraph 193 insert -

“193A. Nothing in paragraphs 194-196F is to be construed as allowing a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as a spouse or civil partner of a person granted entry clearance or leave to enter under Paragraph 159A where that entry clearance or leave to enter was granted under 159A on or after 1<sup>st</sup> October 2012.”.

17. After the heading below Paragraph 196F insert -

“196G. Nothing in paragraphs 197-199 is to be construed as allowing a person to be granted entry clearance, leave to enter, leave to remain or variation of leave as the child of a person granted entry clearance or leave to enter under Paragraph 159A where that entry clearance or leave to enter was granted under 159A on or after 1<sup>st</sup> October 2012.”.

18. In paragraph 245DB(c), delete “paragraphs 1 to 3” and substitute “paragraphs 1 to 15”.

19. In paragraph 245DD(c), delete “paragraphs 1 to 3” and substitute “paragraphs 1 to 15”.

20. In paragraph 245DD(e), after “(iv) as a Tier 1 (Investor) Migrant,” insert –  
“(v) as a Tier 1 (Graduate Entrepreneur) Migrant,”.

21. In paragraph 245DD(e), renumber following sub-paragraphs (v) to (xx) as (vi) to (xxi).

22. Delete paragraphs 245F to 245FE and substitute -

## **“Tier 1 (Graduate Entrepreneur) Migrants**

### **245F. Purpose of the route and meaning of business**

(a) This route is for graduates who have been identified by Higher Education Institutions as having developed world class innovative ideas or entrepreneurial skills to extend their stay in the Isle of Man after graduation to establish one or more businesses in the Isle of Man.

(b) For the purpose of paragraphs 245F to 245FB and paragraphs 66 to 72 of Appendix A 'business' means an enterprise as:

- (i) a sole trader,
- (ii) a partnership, or
- (iii) a company registered in the Isle of Man.

### **245FA. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(b) The applicant must have a minimum of 75 points under paragraphs 66 to 72 of Appendix A.

(c) The applicant must have a minimum of 10 points under paragraph 9 of Appendix B.

(d) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.

(e) The applicant must have, or have last been granted, entry clearance, leave to enter or remain:

- (i) as a Tier 4 Migrant,
- (ii) as a Student,
- (iii) as a Student Nurse,
- (iv) as a Student Re-sitting an Examination,
- (v) as a Student Writing Up a Thesis,
- (vi) as a Postgraduate Doctor or Dentist, or
- (vii) as a Tier 1 (Graduate Entrepreneur) Migrant.

(f) The applicant must not have previously been granted entry clearance, leave to enter or remain as a Tier 1 (Post-Study Work) Migrant, a Participant in the Fresh Talent: Working in Scotland Scheme, or a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme).

(g) The applicant must not previously have been granted leave as a Tier 1 (Graduate Entrepreneur) Migrant on more than 1 occasion.

(h) An applicant who does not have, or was not last granted, leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant and:

(i) is currently being sponsored in his studies by a government or international scholarship agency, or

(ii) was being sponsored in his studies by a government or international scholarship agency,

and that sponsorship came to an end 12 months ago or less, must provide the unconditional written consent of the sponsoring government or agency to the application and must provide the specified documents to show that this requirement has been met.

#### **245FB. Period and conditions of grant**

Leave to remain will be granted for a period of 1 year and will be subject to the following conditions:

(i) no recourse to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules,

(iii) no employment except:

(1) working for the business(es) the applicant has established and

(2) other employment of no more than 20 hours per week,

(iv) no employment as a Doctor or Dentist in Training, and

(v) no employment as a professional sports person (including as a sports coach)."

23. In paragraph 245GB(d), delete "Tier 2 (Intra-Company Transfer) Migrant" and substitute "Tier 2 Migrant".

24. In paragraph 245GD(g), delete "paragraphs 5 to 10" and substitute "paragraphs 1 to 16".

25. Delete paragraph 245GE(c) and substitute –

“(c) in the cases set out in paragraph (d) below, leave to remain will be granted for:  
(i) a period equal to the length of the period of engagement plus 14 days, or  
(ii) a period of 3 years plus 14 days, whichever is the shorter.”.

26. In paragraph 245HB(e), delete “paragraphs 5 to 10” and substitute “paragraphs 1 to 18”.

27. Renumber paragraphs 245HB(g) to (k) as (h) to (l).

28. After paragraph 245HB(f), insert -

“(g) The applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, regardless of whether he was in the Isle of Man during that time.”.

29. Delete paragraph 245HD(b) and substitute –

“(b) the applicant must:

(i) have, or have last been granted, entry clearance, leave to enter or leave to remain as:

(1) a Tier 1 Migrant,

(2) a Tier 2 Migrant,

(3) a Highly Skilled Migrant,

(4) an Innovator,

(5) a Jewish Agency Employee,

(6) a Member of the Operational Ground Staff of an Overseas-owned Airline,

(7) a Minister of Religion, Missionary or Member of a Religious Order,

(8) a Participant in the Fresh Talent: Working in Scotland Scheme,

(9) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),

(10) a Qualifying Work Permit Holder,

(11) a Representative of an Overseas Business

(12) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,

(13) a Tier 5 (Temporary Worker) Migrant, or

(14) the partner of a Relevant Points Based System Migrant if the relevant Points Based System Migrant is a Tier 4 Migrant,

or

(ii) have current entry clearance, leave to enter or leave to remain which has not expired, as:

- (1) a Tier 4 Migrant,
- (2) a Student,
- (3) a Student Nurse,
- (4) a Student Re-Sitting an Examination,
- (5) a Person Writing Up a Thesis,
- (6) an Overseas Qualified Nurse or Midwife,
- (7) a Postgraduate Doctor or Dentist, or
- (8) a Student Union Sabbatical Officer.”.

30. After paragraph 245HD(b) insert -

“(c) An applicant who has, or was last granted leave as a Tier 2 (Intra-Company Transfer) Migrant must:

- (i) have previously had leave as a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place before 26 July 2010, or in the Established Staff sub-category under the Rules in place before 6 June 2011,
- (ii) not have been granted entry clearance in this or any other route since the grant of leave referred to in (i) above; and
- (iii) not be applying to work for the same Sponsor as sponsored him when he was last granted leave.”.

31. Delete paragraphs 245HD(f) and (g) and substitute -

“(d) An applicant under the provisions in (b)(ii) above must meet the following requirements:

(i) The applicant must have completed and passed:

- (1) a UK recognised bachelor or postgraduate degree (not a qualification of equivalent level which is not a degree),
- (2) a UK Postgraduate Certificate in Education or Professional Graduate Diploma of Education (not a qualification of equivalent level),

or the applicant must have completed a minimum of 12 months study in the Isle of Man towards a UK PhD.

(ii) The applicant must have studied for the course in (d)(i) at an Isle of Man institution that is a recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.

(iii) The applicant must have studied the course referred to in (d)(i) during:

(1) his last grant of leave, or

(2) a period of continuous leave which includes his last grant of leave.

(iv) The applicant's periods of Isle of Man study and/or research towards the course in (i) must have been undertaken whilst he had entry clearance, leave to enter or leave to remain in the Isle of Man that was not subject to a restriction preventing him from undertaking that course of study and/or research.

(v) If the institution studied at is removed from the Tier 4 Sponsor Register, the applicant's qualification must not have been obtained on or after the date of removal from the Sponsor Register.

(vi) If the applicant:

(1) is currently being sponsored by a government or international scholarship agency, or

(2) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less,

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

(vii) The applicant must provide the specified evidence."

32. At the end of paragraph 245HD(h), after "met" insert ", and the applicant must be applying for leave to remain as a Tier 2 (Sportsperson) Migrant".

33. In paragraph 245HD(l), delete "paragraphs 5 to 10" and substitute "paragraphs 1 to 16".

34. Renumber paragraphs 245HD(h) to (m) as (e) to (j).

35. After paragraph 245HD(j), insert -

"(k) Unless the applicant's last grant of leave was as a Tier 2 Migrant, the applicant must not have had entry clearance or leave to remain as a Tier 2 Migrant at any time during the 12 months immediately before the date of the application, regardless of whether he was in the Isle of Man during that time."

36. Renumber paragraphs 245HD(n) to (q) as (l) to (o).

37. Delete paragraphs 245HE(a) to (e) and substitute -

“(a) If the applicant:

(i) previously had leave under the Rules in place before 6 April 2011 as:

(1) a Tier 2 (General) Migrant,

(2) a Tier 2 (Minister of Religion) Migrant,

(3) a Tier 2 (Sportsperson) Migrant,

(4) a Jewish Agency Employee,

(5) a Member of the Operational Ground Staff of an Overseas-owned Airline,

(6) a Minister of Religion, Missionary or Member of a Religious Order,

(7) a Qualifying Work Permit Holder, or

(8) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation, and

(ii) has not been granted entry clearance as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant under the Rules in place from 6 June 2011, and

(iii) has not been granted entry clearance, leave to enter or leave to remain in any other category since the grant of leave referred to in (i) above,

leave to remain will be granted as set out in paragraph (d) below.

(b) In all other cases, leave to remain will be granted as set out in paragraph (e) below.

(c) In paragraph (e) below, X refers to the continuous period of time, during which the applicant:

(i) has had entry clearance, leave to enter or leave to remain as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant; or

(ii) has been in the Isle of Man without leave following leave in one of these categories.

(d) in the cases set out in paragraph (a) above, leave to remain will be granted for:

(i) the length of the period of engagement plus 14 days, or

(ii) a period of 3 years plus 14 days, whichever is the shorter.

(e) If paragraph (a) does not apply, leave to remain will be granted for:

- (i) the length of the period of engagement plus 14 days,
- (ii) a period of 3 years plus 14 days, or
- (iii) a period equal to 6 years less X, whichever is the shorter. If the calculation of the period of leave comes to zero or a negative number, leave to remain will be refused.”.

38. In paragraph 245HE(f), delete “(a),”.

39. At the end of paragraph 245HE(g)(iii)(3), delete “and”.

40. Renumber paragraph 245HE(g)(iii)(4) as 245HE(g)(iii)(5).

41. After paragraph 245HE(g)(iii)(3), insert -

“(4) until the start date of the period of engagement, any employment which the applicant was lawfully engaged in on the date of his application, and”.

42. At the end of paragraph 245ZM(a), after “objectives” insert “, including volunteering and job shadowing”.

43. After paragraph 245ZO(c), insert -

“(d) Where the applicant is under 18 years of age, the application must be supported by the applicant's parents or legal guardian or by just one parent if that parent has sole legal responsibility for the child.

(e) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole responsibility for the child, must confirm that they consent to the arrangements for the applicant's travel to, and reception and care in, the Isle of Man.”.

44. In paragraph 245ZP(c), delete -

“sponsored in the creative and sporting or charity workers sub-category of the Tier 5 (Temporary Worker) Migrant route, leave to enter will be granted for:”

and substitute:

“sponsored in the Creative and Sporting subcategory, the Government Authorised Exchange subcategory for a Work Experience Programme, or the Charity Workers



sub-category of the Tier 5 (Temporary Worker) Migrant route, entry clearance or leave to enter will be granted for:”.

45. Delete paragraph 245ZP(d) and substitute -

“(d) Where paragraph 245ZN(b) does not apply and the Certificate of Sponsorship Checking Service reference number for which the applicant was awarded points under Appendix A records that the applicant is being sponsored in the Religious Workers subcategory, the Government Authorised Exchange subcategory for a Research Programme or Training Programme or the International Agreement subcategory of the Tier 5 (Temporary Worker) Migrant route, entry clearance will be granted for:

(i) a period commencing 14 days before the beginning of the period of engagement and ending 14 days after the end of that period of engagement, or

(ii) 2 years,

whichever is the shorter.”.

46. Delete paragraph 245ZP(e)(iii)(2) and substitute -

“(2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the Government Authorised Exchange subcategory of Tier 5 (Temporary Workers), the work, volunteering or job shadowing authorised by the Sponsor and that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, and”.

47. After paragraph 245 ZQ(b)(ii) insert –

“(iii) entry clearance, leave to enter or leave to remain as a Student, a Student Re-Sitting an Examination, a Person Writing Up a Thesis, a Postgraduate Doctor or Dentist, a Student Nurse, a Student Union Sabbatical Officer, or a Tier 4 (General) Migrant, provided the Certificate of Sponsorship Checking Service reference for which he is being awarded points in this application confirms:

(1) he is being sponsored in the government authorised exchange sub-category, and

(2) he lawfully obtained a UK recognised bachelor or postgraduate degree (not a qualification of equivalent level which is not a degree) during his last grant of leave, and

(3) he is being sponsored to undertake a period of postgraduate professional training or work experience which is required to obtain a professional qualification or

professional registration in the same professional field as the qualification in (2) above, and

(4) that he will not be filling a permanent vacancy, such that the employer he is directed to work for by the Sponsor does not intend to employ him in the UK once the training or work experience for which he is being sponsored has concluded.”.

48. After paragraph 245 ZQ(e) insert –

“(f) Where the applicant is under 18 years of age, the application must be supported by the applicant' parents or legal guardian, or by just one parent if that parent has sole legal responsibility for the child.

(g) Where the applicant is under 18 years of age, the applicant's parents or legal guardian, or just one parent if that parent has sole legal responsibility for the child, must confirm that they consent to the arrangements for the applicant's care in the UK.

(h) An applicant who has, or was last granted, leave as a Student, a Student Re-Sitting an Examination, a Person Writing Up a Thesis, a Postgraduate Doctor or Dentist, a Student Nurse, a Student Union Sabbatical Officer, or a Tier 4 (General) Migrant and:

(i) is currently being sponsored by a government or international scholarship agency, or

(ii) was being sponsored by a government or international scholarship agency, and that sponsorship came to an end 12 months ago or less

must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.”.

49. Delete paragraph 245ZR(b)(ii) and substitute -

“(ii) the difference between the period that the applicant has already spent in the Isle of Man since his last grant of entry clearance or leave to enter as a Tier 5 (Temporary Worker) Migrant and:

(1) 12 months, if he is being sponsored in the Government Authorised exchange sub-category for a Work Experience Programme where the initial grant of leave was granted under the Rules in place from 6 April 2012, the Creative and Sporting subcategory, or the Charity Workers subcategory, or

(2) 2 years, if he is being sponsored in the Government Authorised Exchange sub-category where the initial grant of leave was made under the Rules in place before 6 April 2012 or for a Research Programme or Training

Programme, the Religious Workers subcategory, or the International Agreement subcategory.”.

50. Delete paragraph 245ZR(d).

51. Delete paragraph 245ZR(g)(iii)(2) and substitute -

“(2) in the case of a migrant whom the Certificate of Sponsorship Checking Service records as being sponsored in the government authorised exchange subcategory of Tier 5 (Temporary Workers), the work, volunteering or job shadowing authorised by the Sponsor and that the Certificate of Sponsorship Checking Service records that the migrant is being sponsored to do, and”.

52. In paragraph 245ZV(ca), delete “Where an applicant has been issued with a Confirmation of Acceptance for Studies on or after 27 June 2011”.

53. In paragraph 245ZV(ca), delete the first occurrence of “the” and substitute “The”.

54. Delete paragraph 245ZV(d) and substitute –

“(d) if the applicant wishes to undertake a course:

(i) undergraduate or postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 of these Rules, or

(ii) undergraduate or postgraduate studies leading to a taught Masters degree or other postgraduate qualification in one of the disciplines listed in paragraph 2 of Appendix 6 of these Rules, or

(iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at an institution of higher education where this forms part of an overseas postgraduate qualification

the applicant must hold a valid Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office which relates to the course, or area of research, that the applicant will be taking and at the institution at which the applicant wishes to undertake it and must provide the specified documents to show that these requirements have been met.”.

55. After paragraph 245ZV(g), insert:

“(ga) If the course is at degree level or above, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 5 years in the Isle of Man as a Tier 4 (General) Migrant, or as a Student, studying courses at degree level or above unless:

(i) the applicant has successfully completed a course at degree level in the Isle of Man of a minimum duration of 4 academic years, and will follow a course of study at Master’s degree level sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children, and the grant of entry clearance must not lead to the applicant having spent more than 6 years in the Isle of Man as a Tier 4 (General) Migrant studying courses at degree level or above; or

(ii) the grant of entry clearance is to follow a course leading to the award of a PhD, and the applicant is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children; or

(iii) the applicant is following a course of study in;

(1) Architecture;

(2) Medicine;

(3) Dentistry;

(4) Law, where the applicant has completed a course at degree level in the Isle of Man and is progressing to:

a. the Common Professional Examination;

b. the Graduate Diploma in Law and Legal Practice Course; or

c. the Bar Professional Training Course.

(5) Veterinary Medicine & Science; or

(6) Music at a music college that is a member of Conservatoires UK (CUK).

(gb) If the applicant has completed a course leading to the award of a PhD in the Isle of Man, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 8 years in the UK as a Tier 4 (General) Migrant, or as a student.”.

56. In paragraph 245ZW(b), in the section entitled “Notes” insert after (ii) -

“(iii) The additional periods of entry clearance granted further to the table above will be disregarded for the purposes of calculating whether a migrant has exceeded the limits specified at 245ZV(g) to 245ZV(gb)”.

57. In paragraph 245ZW(c) (iii) (4), after “does not exceed” delete “half” and substitute “one third”.

58. In paragraph 245ZW(c) (iii) (4), after “undertaken in the Isle of Man except” delete “where it is a statutory requirement that the placement should exceed half the total length of the course” and insert –

“(i) where it is a statutory requirement that the placement should exceed one third of the total length of the course; or

(ii) where the placement does not exceed one half of the total length of the course undertaken in the Isle of Man and the student is following a course of degree level study and is either:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children.”.

59. In paragraph 245ZW(c)(iii), after (6), insert -

“(7) until such time as a decision is received from the Isle of Man Immigration Office on an application which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor and which is made following successful completion of a course at degree level or above at a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children and while the applicant has extant leave, and any appeal against that decision has been determined, employment with the Tier 2 Sponsor, in the role for which they assigned the Certificate of Sponsorship to the Tier 4 migrant.”.

60. In paragraph 245ZW(c)(iii), delete “employed as a Doctor or Dentist in Training other than a vacancy on a recognised Foundation Programme” and substitute “employed as a Doctor or Dentist in Training unless the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme”.

61. In paragraph 245ZW(c)(iii), after “permanent full time vacancy other than” insert “under the conditions of (7) above, or”.

62. Delete paragraph 245ZX(e) and substitute –

“(e) if the applicant wishes to undertake a course:

(i) undergraduate or postgraduate studies leading to a Doctorate or Masters degree by research in one of the disciplines listed in paragraph 1 of Appendix 6 of these Rules, or

(ii) undergraduate or postgraduate studies leading to a taught Masters degree or other postgraduate qualification in one of the disciplines listed in paragraph 2 of Appendix 6 of these Rules, or

(iii) a period of study or research in excess of 6 months in one of the disciplines listed in paragraphs 1 or 2 of Appendix 6 of these Rules at an institution of higher education where this forms part of an overseas postgraduate qualification

the applicant must hold a valid Academic Technology Approval Scheme clearance certificate from the Counter-Proliferation Department of the Foreign and Commonwealth Office which relates to the course, or area of research, that the applicant will be taking and at the institution at which the applicant wishes to undertake it and must provide the specified documents to show that these requirements have been met.”.

63. After paragraph 245ZX(h), insert -

“(ha) If the course is at degree level or above, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 5 years in the Isle of Man as a Tier 4 (General) Migrant, or as a Student, studying courses at degree level or above unless:

(i) the applicant has successfully completed a course at degree level in the Isle of Man of a minimum duration of 4 academic years, and will follow a course of study at Master’s degree level sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children, and the grant of entry clearance must not lead to the applicant having spent more than 6 years in the Isle of Man as a Tier 4 (General) Migrant studying courses at degree level or above; or

(ii) the grant of entry clearance is to follow a course leading to the award of a PhD, and the applicant is sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children; or

(iii) the applicant is following a course of study in;

(1) Architecture;

(2) Medicine;

(3) Dentistry;

(4) Law, where the applicant has completed a course at degree level in the Isle of Man and is progressing to:

- a. the Common Professional Examination;
  - b. the Graduate Diploma in Law and Legal Practice Course; or
  - c. the Bar Professional Training Course.
- (5) Veterinary Medicine & Science; or
- (6) Music at a music college that is a member of Conservatoires UK (CUK).

(hb) If the applicant has completed a course leading to the award of a PhD in the Isle of Man, the grant of entry clearance the applicant is seeking must not lead to the applicant having spent more than 8 years in the UK as a Tier 4 (General) Migrant, or as a student.”.

64. In paragraph 245ZY(b), in the section entitled “Notes” insert after (ii) -

“(iii) The additional periods of entry clearance granted further to the table above will be disregarded for the purposes of calculating whether a migrant has exceeded the limits specified at 245ZX(h) to 245ZX(hb).”.

65. In paragraph 245ZY(c)(iii)(4), after “placement does not exceed” delete “half” and substitute “one third”.

66. In paragraph 245ZY(c)(iii)(4), after “undertaken in the Isle of Man except” delete “where it is a statutory requirement that the placement should exceed half the total length of the course” and insert -

“: (i) where it is a statutory requirement that the placement should exceed one third of the total length of the course; or

(ii) where the placement does not exceed one half of the total length of the course undertaken in the Isle of Man and the student is following a course of degree level study and is:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children.”

67. In paragraph 245ZY(c)(iii), after (6), insert -

“(7) until such time as a decision is received from the Isle of Man Immigration Office on an application which is supported by a Certificate of Sponsorship assigned by a licensed Tier 2 Sponsor and which is made following successful completion of a course at degree level or above at a Sponsor that is a Recognised Body or a body in

receipt of public funding as a higher education institution from the Department for Education and Children and while the applicant has extant leave, and any appeal against that decision has been determined, employment with the Tier 2 Sponsor, in the role for which they assigned the Certificate of Sponsorship to the Tier 4 migrant.”

68. In paragraph 245ZY(c)(iii), delete “employed as a Doctor or Dentist in Training other than a vacancy on a recognised Foundation Programme” and substitute “employed as a Doctor or Dentist in Training unless the course that the migrant is being sponsored to do (as recorded by the Confirmation of Acceptance for Studies Checking Service) is a recognised Foundation Programme”.
69. In paragraph 245ZY(c)(iii), after “permanent full time vacancy other than” insert “ under the conditions of (7) above, or”.
70. Delete paragraph 276A1 and substitute -  
“276A1. The requirement to be met by a person seeking an extension of stay on the ground of long residence in the Isle of Man is that the applicant meets each of the requirements in paragraph 276B(i)-(ii).”.
71. In paragraph 319H(f), after “Both of the applicant's parents must either be lawfully present in the UK, or being granted entry clearance or leave to remain at the same time as the applicant,” insert “; or one parent must be lawfully present in the UK and the other is being granted entry clearance or leave to remain at the same time as the applicant,”.
72. In paragraph 319H(h), after “as the child of” insert “, or have been born in the Isle of Man to,”.
73. In paragraph 319J(c), after “as the child of” insert “, or have been born in the Isle of Man to,”.
74. At the end of paragraph 320(7A), after “in relation to the application” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application”.



75. In paragraph 320(7B)(d), after “leave to enter or remain” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application”.
76. In paragraph 320(11), after “leave to enter or remain” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application”.
77. Delete paragraph 320(15).
78. In paragraph 321(i), after “in relation to the application for entry clearance” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application”.
79. In paragraph 321A(2), after “in relation to the application for leave” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application”.
80. In paragraph 322(1A), after “in relation to the application” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application”.
81. In paragraph 322(2), after “a previous variation of leave” insert “, or in order to obtain documents from the Lieutenant Governor or a third party required in support of the application for leave to enter or a previous variation of leave”.
82. Delete paragraph 323A and substitute -
- “323A. In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 2 Migrant, a Tier 4 Migrant or a Tier 5 Migrant:
- (a) is to be curtailed, or its duration varied, if:
- (i) in the case of a Tier 2 Migrant or a Tier 5 Migrant:
- (1) the migrant fails to commence working for the Sponsor, or
- (2) the migrant ceases to be employed by the Sponsor.
- (ii) in the case of a Tier 4 Migrant:
- (1) the migrant fails to commence studying with the Sponsor, or

(2) the migrant has been excluded or withdrawn from the course of studies.

(b) may be curtailed, or its duration varied, if:

(i) the migrant's Sponsor ceases to have a sponsor licence (for whatever reason); or

(ii) the migrant's Sponsor transfers the business for which the migrant works, or at which the migrant is studying, to another person; and

(1) that person does not have a sponsor licence; and

(2) fails to apply for a sponsor licence within 28 days of the date of the transfer of the business; or

(3) applies for a sponsor licence but is refused; or

(4) makes a successful application for a sponsor licence, but the Sponsor licence granted is not in a category that would allow the Sponsor to issue a Certificate of Sponsorship to the migrant;

(iii) in the case of a Tier 2 Migrant or a Tier 5 Migrant, the migrant continues to be employed by, but ceases working for, the Sponsor for a period of one calendar month or more, unless the period is due solely to:

(1) maternity leave

(2) paternity leave

(3) adoption leave, or

(4) sick leave;

(iv) paragraph (a) above applies but:

(1) the migrant is under the age of 18;

(2) the migrant has a dependent child under the age of 18;

(3) leave is to be varied such that when the variation takes effect the migrant will have leave to enter or remain and the migrant has less than 60 days extant leave remaining;

(4) the migrant has been granted leave to enter or remain with another Sponsor or under another immigration category; or

(5) the migrant has a pending application for leave to remain, or variation of leave, with the Isle of Man Immigration Office, or has a pending appeal under Section 82 of the Nationality, Immigration and Asylum Act 2002 (of Parliament)<sup>5</sup>."

---

<sup>5</sup> 2002 c41

83. After paragraph 323B, insert -

**“Curtailement of leave in relation to a Tier 1 (Graduate Entrepreneur) Migrant**

323C. In addition to the grounds specified in paragraph 323, the leave to enter or remain of a Tier 1 (Graduate Entrepreneur) Migrant may be curtailed if the Higher Education Institution that endorsed the application which led to the migrant's current grant of leave:

- (a) loses its status as an endorsing institution for Tier 1 (Graduate Entrepreneur) Migrants,
- (b) loses its status as a Highly Trusted Sponsor under Tier 4 of the Points-Based System (for whatever reason),
- (c) ceases to be an A-rated Sponsor under Tier 2 or Tier 5 of the Points-Based System because its Tier 2 or Tier 5 Sponsor licence is downgraded or revoked by the Department for Economic Development, or
- (d) withdraws its endorsement of the migrant.”.

84. Appendix A is amended in accordance with paragraphs 85 to 123.

85. Delete paragraph 37 and substitute –

“37. Available points are shown in Table 5 for an applicant who:

- (a) has had entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator in the 12 months immediately before the date of application, or
- (b) is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Entrepreneur) Migrant, a Businessperson or an Innovator.”.

86. Delete paragraph 39(b) and (c) and substitute –

“(b) Notes to accompany Tables 4, 5 and 6 appear below Table 6.”.

87. Delete Table 4 and substitute -

**“Table 4:**

<b>Investment and business activity</b>	<b>Points</b>
(a) The applicant has access to not less than £200,000, or (b) Not used	<b>25</b>

<p>(c) The applicant:</p> <ul style="list-style-type: none"> <li>(i) is applying for leave to remain,</li> <li>(ii) has, or was last granted, leave as a Tier 1 (Graduate Entrepreneur) Migrant,</li> <li>(iii) has access to not less than £50,000, or</li> </ul> <p>(d) The applicant:</p> <ul style="list-style-type: none"> <li>(i) is applying for leave to remain,</li> <li>(ii) has, or was last granted, leave as a Tier 1 (Post Study Work) Migrant,</li> <li>(iii) on a date falling within the three months immediately prior to the date of application, <ul style="list-style-type: none"> <li>(1) had, in accordance with regulation 87 of the Social Security (Contributions) Regulations 2001 (as applied to the Island), notified the Treasury of the Isle of Man of his liability to pay Class 2 contributions; or</li> <li>(2) registered a new business in which he is a director, or</li> <li>(3) was registered as a director of an existing business.</li> </ul> </li> <li>(iv) is engaged in business activity, other than the work necessary to administer his business, in an occupation which appears on the list of occupations skilled to NQF level 4 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, and</li> <li>(v) has access to not less than £50,000</li> </ul>	
The money is held in one or more regulated financial institutions	25
The money is disposable in the Isle of Man	25

88. In the first row of Table 5, after £200,000 insert – “(or £50,000 if, in his last grant of leave, he was awarded points for funds of £50,000 as set out in Table 4 above)”.

89. At the end of paragraph 46, after “as a Tier 1 (Entrepreneur) Migrant” add “or a Tier 1 (Post-Study Work) Migrant”.

90. Delete paragraph 53.

91. Delete paragraph 56 and substitute –

“56. Available points are shown in Table 8 for an applicant who:

(a) has had entry clearance, leave to enter or leave to remain as a Tier 1 (Investor) Migrant or an Investor in the 12 months immediately before the date of application, or

(b) is applying for leave to remain and has, or was last granted, entry clearance, leave to enter or leave to remain as a Tier 1 (Investor) Migrant or an Investor.”.

92. In the header for Table 7, delete “paragraph 60” and substitute “paragraph 55”.

93. In the header for Table 8, delete “paragraph 61” and substitute “paragraph 56”.

94. In paragraph 61(a), delete “paragraphs 319(c) and (d)” and substitute “paragraphs 319C(c) and (d)”.

95. Delete paragraphs 66 to 72 and Table 10 and substitute –

**“Attributes for Tier 1 (Graduate Entrepreneur) Migrants**

66. An applicant applying for leave to remain as a Tier 1 (Graduate Entrepreneur) Migrant must score 75 points for attributes.

67. Available points are shown in Table 10.

68. Notes to accompany the table appear below the table.

**Table 10**

<b>Criterion</b>	<b>Points</b>
The applicant has been endorsed by a Higher Education Institution which: (a) Has Highly Trusted Sponsor status under Tier 4 of the Points Based System, (b) is an ‘A’ rated sponsor under Tier 2 of the Points Based System if a Tier 2 licence is held (c) is an ‘A’ rated sponsor under Tier 5 of the Points Based System if a Tier 5 licence is held, and (d) has established processes and competence for identifying, nurturing and developing entrepreneurs among its undergraduate and postgraduate.	<b>25</b>
(a) If the applicant’s previous grant of leave was not as a Tier 1 (Graduate Entrepreneur) Migrant, the endorsement confirms that, within the 12 months immediately before the date of the endorsement, the institution has awarded	<b>25</b>

<p>the applicant a UK recognised Bachelor degree, Masters degree or PhD( not a qualification of equivalent level which is not a degree),</p> <p>or</p> <p>(b) If the applicant’s previous grant of leave was as a Tier 1 (Graduate Entrepreneur) Migrant, the endorsement is from the same institution which provided the endorsement for that previous grant of leave.</p>	
<p>The endorsement must confirm that the institution has assessed the applicant and considers that:</p> <p>(a) the applicant has a genuine, credible and innovative business idea, and</p> <p>(b) the applicant will spend the majority of his working time on developing business ventures, and</p> <p>(c) if the applicant’s previous grant of leave was as a Tier 1 (Graduate Entrepreneur), ha has made satisfactory progress in developing his business since that leave was granted and will, on the balance of probabilities, qualify for leave to remain as a Tier 1 (Entrepreneur) Migrant within the next 12 months.</p>	25

**Notes**

69 – Not Used

**Endorsement**

70. Points will only be awarded for an endorsement if:

- (a) the endorsement was issued to the applicant no more than 3 months before the date of application,
- (b) the endorsement has not been withdrawn by the relevant Higher Education Institution at the time the application is considered by the UK Border Agency, and
- (c) the applicant provides the specified evidence.

**Qualifications**

71. Points will only be awarded for a qualification awarded by the endorsing Higher Education Institution if the institution provides the specified details of the qualification.”.

96. In paragraph 74A(d), after “invalid application” insert “, declared void”.

97. Delete paragraph 74B and substitute –

“74B. No points will be awarded for a Certificate of Sponsorship unless:

- (a) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on:

- (i) the list of occupations skilled to National Qualifications Framework level 6 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or
  - (ii) the list of creative sector occupations skilled to National Qualifications Framework level 4 or above, as stated in the Sponsor Guidance published by the UK Border Agency, or
- (b)
- (i) the applicant is applying for leave to remain,
  - (ii) the applicant previously had leave as a Tier 2 (Intra-Company Transfer) Migrant under the Rules in place between 6 June 2011 and 1<sup>st</sup> October 2012 date], and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route, and
  - (iii) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or
- (c)
- (i) the applicant is applying for leave to remain as a Tier 2 (Intra-Company Transfer) Migrant in the Long Term Staff sub-category,
  - (ii) the applicant previously had leave as:
    - (1) a Tier 2 (Intra-Company Transfer) Migrant under the rules in place before 6 June 2011, or
    - (2) a Qualifying Work Permit Holder, and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route, and
  - (iii) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 3 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or the applicant is a Senior Care Worker or an Established Entertainer as defined in paragraph 6 of these Rules.”

98. In the third row of Table 11A, after “Job passes Resident Labour Market Test” insert “ or an exemption applies”.

99. Delete paragraph 77B.

100. Delete paragraph 77C(e) and substitute –

“(e) The migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn),”.

101. Delete paragraph 77D.

102. Delete paragraph 77E and substitute -

“77E. No points will be awarded for a Certificate of Sponsorship unless:

(a) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on:

(i) the list of occupations skilled to National Qualifications Framework level 6 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or

(ii) the list of creative sector occupations skilled to National Qualifications Framework level 4 or above, as stated in the Sponsor Guidance published by the UK Border Agency, or

(b) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do is skilled to National Qualifications Framework level 4 or above, and appears on the list of shortage occupations published by the UK Border Agency, or

(c) (i) the applicant is applying for leave to remain,

(ii) the applicant previously had leave as a Tier 2 (General) Migrant or a Qualifying Work Permit Holder, and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route,

(iii) at the time a Certificate of Sponsorship or Work Permit which led to a grant of leave in (ii) was issued, the job referred to in that Certificate of Sponsorship or Work Permit appeared on the list of shortage occupations published by the UK Border Agency, and

(iv) the job that the Certificate of Sponsorship Checking service entry records that the person is being sponsored to do in his current application is the same as the job referred to in (iii), for either the same or a different employer, or

(d) (i) the applicant is applying for leave to remain,

(ii) the applicant previously had leave as a Tier 2 (General) Migrant under the Rules in place between 6 June 2011 and 1<sup>st</sup> October 2012 and has not since been granted leave to remain in any other route, or entry clearance or leave to enter in any route, and



(iii) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 4 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency,

or

(e) (i) the applicant is applying for leave to remain,

(ii) the applicant previously had leave as:

(1) a Tier 2 (General) Migrant under the rules in place before 6 June 2011,

(2) a Qualifying Work Permit Holder,

(3) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation,

(4) Not used

(5) Not used

(iii) the job that the Certificate of Sponsorship Checking Service entry records that the person is being sponsored to do appears on the list of occupations skilled to National Qualifications Framework level 3 or above, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, or the applicant is a Senior Care Worker or an Established Entertainer as defined in paragraph 6 of these Rules.”.

103. Delete paragraph 78B and substitute –

**“Job offer passes Resident Labour Market Test or an exemption applies**

78B. (a) In order for the applicant to be awarded points for a job offer that passes the resident labour market test market test, the Certificate of Sponsorship Checking Service entry must:

(i) indicate that the Sponsor has met the requirements of that test, as defined in guidance published by the Department for Economic Development, in respect of the job

(ii) contain full details of when and where the job was advertised, and any advertisement reference numbers, including the Jobcentre Plus or JobCentre online vacancy reference number, if the guidance referred to in (a) specifies that the job must have been advertised in Jobcentre Plus or Jobcentre online.

(b) In order for the applicant to be awarded points for a job offer where an exemption from the resident labour market test applies:

(i) the appropriate salary, as determined by paragraphs 79 to 79D of this Appendix, must be at least £150,000 per year, or

(ii) the job offer is to continue working as a Doctor or Dentist in training, under the same NHS Training Number which was assigned to the applicant for previous lawful employment as a Doctor or Dentist in Training in the Isle of Man.”.

104. Delete paragraph 78C(b) to (d) and substitute –

“(b) the applicant must:

(i) have current entry clearance, leave to enter or leave to remain which has not expired, as:

(1) a Tier 1 (Post-Study Work) Migrant,

(2) a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme),

(3) a Participant in the Fresh Talent: Working in Scotland Scheme, or

(ii) The applicant must meet the requirements of paragraphs 245HD(b)(ii) and 245HD(d) of these Rules.”.

105. Delete paragraph 91 and substitute –

“91. The migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn).”.

106. In paragraph 92, delete “must confirm that:” and substitute “must:”.

107. In paragraph 92, renumber (b) to (c) as (f) to (g).

108. In paragraph 92, delete sub-paragraph (a) and substitute –

“(a) confirm that the applicant is being sponsored to perform religious duties, which:

(i) must be work which is within the Sponsor’s organisation, or directed by the Sponsor’s organisation,

(ii) may include preaching, pastoral work and non pastoral work, and

(b) provide an outline of the duties in (a),

(c) if the Sponsor's organisation is a religious order, confirm that the applicant is a member of that order,

(d) confirm that the applicant will receive pay and conditions at least equal to those given to settled workers in the same role, that the remuneration complies with or is exempt from Minimum Wage Regulations<sup>6</sup>, and provide details of the remuneration,

(e) confirm that the requirements of the resident labour market test, as defined in the guidance published by the Department for Economic Development , in respect of the job, have been complied with, unless the applicant is applying for leave to remain and the Sponsor is the same Sponsor as in his last grant of leave,".

109. Delete paragraph 99 and substitute: "99. The migrant must not previously have applied for entry clearance, leave to enter or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn).".

110. Delete paragraphs 110 and 111 and substitute –

"110. The migrant must not previously have applied for entry clearance or leave to remain using the same Certificate of Sponsorship reference number, if that application was either approved or refused (not rejected as an invalid application, declared void or withdrawn).

111. In addition, a Certificate of Sponsorship reference number will only be considered to be valid:

(a) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Creative and Sporting subcategory to enable the applicant to work as a sportsperson, if:

(i) The Certificate of Sponsorship Checking Service entry shows that the applicant has been endorsed by the Governing Body for his sport (that is, the organisation which is specified in the UK Border Agency's published guidelines as being the Governing Body for the sport in question), and

(ii) The endorsement referred to in (i) above confirms that the player or coach is internationally established at the highest level and/or will make a significant contribution to the development of his sport at the highest level in the Isle of Man, and that the post could not be filled by a suitable settled worker.

(b) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Creative and Sporting subcategory to enable the applicant to work as a creative worker, if the entry confirms that the work could not be carried out by a suitable settled worker.

---

<sup>6</sup> 397/01 as amended by 883/11

(c) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Charity Workers subcategory, if the work the applicant is being sponsored to do is:

- (i) voluntary fieldwork directly related to the purpose of the charity which is sponsoring him,
- (ii) not paid (except reasonable expenses outlined in section 44 of the Minimum Wage Regulations,
- (iii) not a permanent position.

(d) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Religious Workers subcategory, if the entry confirms:

- (i) that the applicant is being sponsored to perform religious duties, which:
  - (1) must be work which is within the Sponsor's organisation, or directed by the Sponsor's organisation,
  - (2) may include preaching, pastoral work and non pastoral work, and (ii) an outline of the duties in (i),
- (iii) if the Sponsor's organisation is a religious order, that the applicant is a member of that order;
- (iv) that the applicant will receive pay and conditions at least equal to those given to settled workers in the same role,
- (v) that the remuneration complies with or is exempt from Minimum Wage Regulations, and provides details of the remuneration,
- (vi) that the applicant will not be displacing or denying an employment opportunity to a suitably qualified member of the resident labour force.

(e) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the Government Authorised Exchange subcategory, if the entry confirms that the work, volunteering or job shadowing the applicant is being sponsored to do:

- (i) meets the requirements of the individual exchange scheme, as published on the UK Border Agency website or by the Department for Economic Development,
- (ii) does not fill a vacancy in the workforce,
- (iii) is skilled to National Qualifications Framework level 3, as stated in the codes of practice for Tier 2 Sponsors published by the UK Border Agency, unless the applicant is being sponsored under an individual exchange scheme set up as part of the European Commission's Lifelong Learning Programme,

(iv) conforms with all relevant Isle of Man legislation, such as the Minimum Wage Act 2001 (of Tynwald)<sup>7</sup>

(f) where the Certificate of Sponsorship Checking Service entry shows that the Certificate of Sponsorship has been issued in the International Agreement subcategory, if the entry confirms that applicant is being sponsored:

(i)

(ii) as an employee of an overseas government, or

(iii) as an employee of an international organisation established by international treaty signed by the UK or European Union, or

(iv)".

111. In paragraph 116(ea), after "invalid application" insert ", declared void".

112. Delete paragraph 118(b).

113. In paragraph 118(c)(i)(3), after "where the student was granted permission", insert "to".

114. In paragraph 118(c)(ii)(3), after "where the student was granted permission", insert "to".

115. In paragraph 118(c)(iii)(3), after "where the student was granted permission", insert "to".

116. In paragraph 118, rename (c) as (b).

117. Delete paragraph 120.

118. In paragraph 120A, delete "assigned on or after 1<sup>st</sup> March 2012"

119. In paragraph 120A, delete sub-paragraph (f), and substitute –

---

<sup>7</sup> C25

“(f) Where the student is following a course of below degree level study including course –related work placement, the course can only be offered by a Highly Trusted Sponsor. If the course contains a course-related work placement, any period that the applicant will be spending on that placement must not exceed one third of the total length of the course spent in the Isle of Man except:

(i) where it is a statutory requirement that the placement should exceed one third of the total length of the course; or

(ii) where the placement does not exceed one half of the total length of the course undertaken in the Isle of Man and the student is following a course of degree level study and is either:

(a) sponsored by a Sponsor that is a Recognised Body or a body in receipt of public funding as a higher education institution from the Department for Education and Children”.

120. After paragraph 123, insert -

“123A. In order to obtain points for a Visa Letter, the applicant must provide a valid Confirmation of Acceptance for Studies reference number.”.

121. In paragraph 124(fa), after “invalid application” insert “, declared void”.

122. In paragraph 124(fa), after “invalid application” insert “, declared void”.

123. In paragraph 125A(b) delete “.” and insert -

“, or

(c) where the application for entry clearance or leave to remain is for the applicant to commence a new course of study, not for completion of a course already commenced by way of re-sitting examinations or repeating a module of a course, the Sponsor must hold an A-rated or Highly Trusted Sponsor Licence and must not be a Legacy Sponsor,

(d) where the Confirmation of Acceptance for Studies is issued by a Legacy Sponsor or a B-rated sponsor, the Confirmation of Acceptance for Studies will only be valid if it is issued for completion of a course already commenced by way of re-sitting examinations or repeating a module of a course and the Confirmation of Acceptance for Studies must be for the same course as the course for which the last period of leave was granted to study with that same sponsor.”.

124. Delete Appendix B and substitute –

**“Appendix B - English language**

1. An applicant applying as a Tier 1 Migrant or Tier 2 Migrant must have 10 points for English language, unless applying:

(i) for entry clearance as a Tier 1 (Exceptional Talent) Migrant

(ii) for entry clearance or leave to remain as a Tier 1 (Investor) Migrant

(iii) for entry clearance as a Tier 2 (Intra-Company Transfer) Migrant

(iv) for a grant of leave to remain as a Tier 2 (Intra-Company Transfer) Migrant that would not extend his total stay in this category beyond 3 years.

2. The levels of English language required are shown in Table 1.

3. Available points for English language are shown in Table 2.

4. Notes to accompany the tables are shown below each table.

**Table 1**

**Level of English language required to score points**

**Tier 1**

Row	Category	Applications	Level of English language required
A	Tier 1 (General)	Entry Clearance and leave to remain	A knowledge of English equivalent to level C1 or above of the Council of Europe’s Common European Framework for Language Learning.
B	Tier 1 (Entrepreneur)	Entry Clearance and leave to remain	
C	Tier 1 (Graduate Entrepreneur)	Leave to remain	

**Tier 2**

Row	Category	Applications	Level of English language required
E	Tier 2 (Minister of Religion)	Entry Clearance and leave to remain	A knowledge of English equivalent to level B2 or above of the Council of Europe’s Common European Framework for Language Learning
F	Tier 2 (General)	Entry Clearance and leave to remain, other than the cases in paragraph 5 below	A knowledge of English equivalent to level B1 or above of the Council of Europe’s Common European Framework for Language Learning

G	Tier 2 (Intra-Company Transfer)	Leave to remain, other than the cases in paragraph 1(iv) above	A knowledge of English equivalent to level A1 or above of the Council of Europe's Common European Framework for Language Learning
H	Tier 2 (General)	Leave to remain cases in paragraph 5 below	
I	Tier 2 (Sportsperson)	Entry Clearance and leave to remain	

### Notes

5. An applicant applying for leave to remain as a Tier 2 (General) Migrant must have competence of English to a level A1 or above as set out in Table 1 above if:

(i) he previously had leave as:

- (1) a Tier 2 (General) Migrant under the rules in place before 6 June 2011,
- (2) a Qualifying Work Permit Holder,
- (3) a representative of an overseas newspaper, news agency or Broadcasting organisation,
- (4) a Member of the Operational Ground Staff of an Overseas-owned Airline, or
- (5) a Jewish Agency Employee,

and

(ii) he has not been granted leave to remain in any other routes, or entry clearance or leave to enter in any route, since the grant of leave referred to in (i) above.

### Table 2

#### Points available for English language

Factor	Points
National of a majority English speaking country	10
Degree taught in English	10
Passed an English language test	10
Met requirement in a previous grant of leave	10
Transitional arrangements	10

### Notes

#### National of a majority English speaking country



6. 10 points will only be awarded for being a national of a majority English speaking country if the applicant has the relevant level of English language shown in Table 1 and:

(i) is a national of one of the following countries:

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

USA

and

(ii) provides the specified documents.

### **Degree taught in English**

7. 10 points will be awarded for a degree taught in English if the applicant has the relevant level of English language shown in Table 1 and:

(i) has obtained an academic qualification (not a professional or vocational qualification) which either:

(1) is deemed by UK NARIC to meet the recognised standard of a Bachelor's degree (not a Master's degree or a PhD) in the UK, and UK NARIC has confirmed that the degree was taught or researched in English to level C1 of the Council of Europe's Common European Framework for Language learning or above

or:

(2) is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, and is from an educational establishment in one of the following countries:

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 UK

the USA,

and

(ii) provides the specified evidence to show he has the qualification.

8. If the applicant is required to have competence of English to level A1 as set out in Table 1 above (rows G to I) , 10 points will be awarded for a degree taught in English if the applicant has the relevant level of English language shown in Table 1 and:

(i) has obtained an academic qualification (not a professional or vocational qualification) which is deemed by UK NARIC to meet or exceed the recognised standard of a Bachelor's or Master's degree or a PhD in the UK, and

(ii) provides the specified evidence to show that:

(1) he has the qualification, and

(2) the qualification was taught or researched in English.

9. An applicant for leave to remain as a Tier 1 (Graduate Entrepreneur) can only score the required 10 points for English language by having a qualification taught in English and scoring 75 points under Table 10, Appendix A.

#### **Passed an English language test**

10. 10 points will only be awarded for passing an English language test if the applicant has the relevant level of English language shown in Table 1 and provides an original English language test document from an English language test provider approved by the Secretary of State for these purposes, which is within its validity date and clearly shows:

- (1) the applicant's name,
- (2) the qualification obtained, which must meet or exceed the relevant level shown in Table 1 in all four components (reading, writing, speaking and listening), unless the applicant was exempted from sitting a component on the basis of his disability, and
- (3) the date of the award.

#### **Met requirement in a previous grant of leave**

11. Subject to paragraph 14 below, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant:

- (i) has ever been granted leave as a Tier 1 (General) Migrant or a Tier 1 (Entrepreneur) Migrant or Business person, or
- (ii) has ever been granted leave as a Highly Skilled Migrant under the Rules in place on or after 5 December 2006.

12. Subject to paragraph 14 below, where the application falls under rows D to I of Table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted:

- (i) leave as a Minister of Religion (not as a Tier 2 (Minister of Religion) Migrant) under the Rules in place on or after 19 April 2007, or
- (ii) leave as a Tier 2 (Minister of Religion) Migrant, provided that when he was granted that leave he obtained points for English language for being a national of a majority English speaking country, a degree taught in English, or passing an English language test.

13. Subject to paragraph 14 below, where the application falls under row D or rows F to I of table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted:

- (i) leave as a Tier 2 (General) Migrant under the Rules in place on or after 6 June 2011, provided that when he was granted that leave he obtained points for having a

knowledge of English equivalent to level B1 of the Council of Europe's Common European Framework for Language Learning or above, or

(ii) leave to remain as a Tier 1 (Exceptional Talent) Migrant.

14. Where the application falls under rows G to I of table 1 above, 10 points will be awarded for meeting the requirement in a previous grant of leave if the applicant has ever been granted:

(i) leave as a Minister of Religion (not as a Tier 2 (Minister of Religion) Migrant) under the Rules in place on or after 23 August 2004,

(ii) leave as a Tier 2 Migrant, provided that when he was granted that leave he obtained points for English language for being a national of a majority English speaking country, a degree taught in English, or passing an English language test.

15. No points will be awarded for meeting the requirement in a previous grant of leave if false representations were made or false documents or information were submitted (whether or not to the applicant's knowledge) in relation to the requirement in the application for that previous grant of leave.

#### **Transitional arrangements**

16. 10 points will be awarded for English language if the applicant:

(a) is applying for leave to remain as a Tier 2 (General) or a Tier 2 (Intra-Company Transfer) Migrant, and

(b) has previously been granted entry clearance, leave to enter or leave to remain as:

(i) a Jewish Agency Employee,

(ii) a Member of the Operational Ground Staff of an Overseas-owned Airline,

(iii) a Minister of Religion, Missionary or Member of a Religious Order,

(iv) a Qualifying Work Permit Holder, (v) a Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation and

(c) has not been granted leave in any categories other than Tier 2 (General), Tier 2 (Intra-Company Transfer) and those listed in (b) above under the Rules in place since 26 July 2010.

17. 10 points will be awarded for English language if the applicant:

(a) is applying for leave to remain as a Tier 2 (Minister of Religion) Migrant,

(b) has previously been granted entry clearance, leave to enter and/or leave to remain as a Minister of Religion, Missionary or Member of a Religious Order, and

(c) has not been granted leave in any categories other than Tier 2 (Minister of Religion) and those listed in (b) above under the Rules in place since 26 July 2010.

18. 10 points will be awarded for English language if the applicant:

- (a) is applying for leave to remain as a Tier 2 (Sportsperson) Migrant,
- (b) has previously been granted entry clearance, leave to enter and/or leave to remain as a Qualifying Work Permit Holder, and
- (c) has not been granted leave in any categories other than Tier 2 (Sportsperson) and as a Qualifying Work Permit Holder under the Rules in place since 26 July 2010.”.

125. Appendix C is amended in accordance with paragraphs 126 to 145.

126. After paragraph 1A(i), insert –

“(j) 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.”.

127. In the table in paragraph 2(a), delete “£2,800” and substitute “£3,100”.

128. In the table in paragraph 2(b), delete “£800” and substitute “£900”.

129. In the table in paragraph 5(a), delete “£800” and substitute “£900”.

130. Delete paragraph 5(c).

131. In paragraph 5(d), delete “£800” and substitute “£900”.

132. In paragraph 5, renumber (d) as (c).

133. In the table in paragraph 7, delete “£1,600” and substitute “£1,800”.

134. In the table in paragraph 9, delete “£800” and substitute “£900”.

135. In paragraph 11, after “in the manner specified in paragraph 13”, insert “and 13A”.

136. In the table in paragraph 11, delete both instances of “£800” and substitute “£1,000” in both cases.

137. In the table in paragraph 11, delete both instances of “£600” and substitute “£800” in both cases.

138. Delete paragraph 13A and substitute –

“13A. In assessing whether the requirements of Appendix C, paragraph 11 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs the maximum amount that will be offset against the total maintenance requirement to be met is £1,000 irrespective of the actual amount of the deposit paid.”.

139. In paragraph 16 after “in the manner specified in paragraph 21”, insert “and 21A”.

140. In paragraph 16(b) under criterion “Where the child is (or will be) studying at a non-residential independent school and is in a private foster care arrangement (see notes below) or staying with and cared for by a close relative” delete “£500” and substitute “£550”.

141. In paragraph 16(b) under criterion “Where the child is (or will be) studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent” delete “£1333 per month of stay” and substitute “£1500 per month of stay”.

142. In paragraph 16(b) under criterion “Where the child is (or will be) studying at a non-residential independent school, is under the age of 12 and is (or will be) accompanied by a parent” delete “£1333 per month, plus £533” and substitute “£1500 per month, plus £600”.

143. In paragraph 16(b) under criterion “Where the child is aged 16 or 17 years old and is living independently” in sub-paragraph i) delete “£600” and substitute “£700”.

144. In paragraph 16(b) under criterion “Where the child is aged 16 or 17 years old and is living independently” in sub-paragraph ii) delete “£600” and substitute “£700”.

145. Delete paragraph 21A, and substitute:

“21A. In assessing whether the requirements of Appendix C, paragraph 11 are met, where an applicant pays a deposit on account to the sponsor for accommodation costs the maximum amount that will be offset against the total maintenance requirement to be met is £1,000 irrespective of the actual amount of the deposit paid.”.

146. Appendix E is amended in accordance with paragraphs 147 to 156.

147. In paragraph (a), delete “£1,600” and substitute “£1,800”.

148. In paragraph (b)(ii), delete “£533” and substitute “£600”.

149. In paragraph (ba)(1), delete “£400” and substitute “£450”.

150. In paragraph (g), after “referred to in (f) above” insert “on the date of the application and”.

151. In paragraph (g)(i), delete “ending no earlier than one calendar month before the date of application, ”.

152. In paragraph (g)(ii), delete “ending no earlier than one calendar month before the date of application, ”.

153. In paragraph (i)(3), delete “the first month of the relevant Points Based System Migrant's employment” and substitute “the first month of the dependant's leave, if granted”.

154. In paragraph (i)(3), delete “£533” and substitute “£600”.

155. In paragraph (ia), delete “, and the Relevant Points Based System Migrant to whom the application is connected has, or is being granted, leave as a Tier 4 (General) Student”.

156. After paragraph (l), insert –

“(m) The end date of the 90-day and 28-day periods referred to in (g) above will be taken as the date of the closing balance on the most recent of the specified documents, and must be no earlier than 31 days before the date of application.”.

157. At the end of Appendix F insert:

**“Immigration Rules as at 1<sup>st</sup> October 2012 relating to overseas qualified nurses of midwives, work permit employment and Tier 1 (Post Study Work) Migrants**

**Overseas qualified nurse or midwife**

**Requirements for an extension of stay as an overseas qualified nurse or midwife**

69P. The requirements to be met by a person seeking an extension of stay as an overseas qualified nurse or midwife are that the applicant:

(i) [NOT USED]

(ii) [DELETED]

(iii) [DELETED]

(iv) has leave to enter or remain as an overseas qualified nurse or midwife in accordance with paragraphs 69M - 69R of these Rules; and

(v) meets the requirements set out in paragraph 69M (i) - (vi); and

(vi) can provide satisfactory evidence of regular attendance during any previous period of supervised practice or midwife adaptation course; and

(vii) if he has previously been granted leave:

(a) as an overseas qualified nurse or midwife under paragraphs 69M-69R of these Rules, or

(b) to undertake an adaptation course as a student nurse under paragraphs 63 - 69 of these Rules;

is not seeking an extension of stay in this category which, when amalgamated with those previous periods of leave, would total more than 18 months; and

(viii) if his previous studies, supervised practice placement or midwife adaptation programme placement were sponsored by a government or international scholarship agency, he has the written consent of his official sponsor to remain in the Isle of Man as an overseas qualified nurse or midwife.

**Extension of stay as an overseas qualified nurse or midwife**

69Q. An extension of stay as an overseas qualified nurse or midwife may be granted for a period not exceeding 18 months, provided that the Lieutenant Governor is satisfied that each of the requirements of paragraph 69P is met.



### **Refusal of extension of stay as an overseas qualified nurse or midwife**

69 R. An extension of stay as an overseas qualified nurse or midwife is to be refused if the Lieutenant Governor is not satisfied that each of the requirements of paragraph 69P is met.

### **Work permit employment**

#### **Requirements for leave to enter the Isle of Man for work permit employment**

128. The requirements to be met by a person coming to the Isle of Man to seek or take employment (unless he is otherwise eligible for admission for employment under these Rules or is eligible for admission as a seaman under contract to join a ship due to leave British waters) are that he;

- (i) holds a valid Department of Trade and Industry work permit; and
- (ii) is not of an age which puts him outside the limits for employment; and
- (iii) is capable of undertaking the employment specified in the work permit; and
- (iv) does not intend to take employment except as specified in his work permit; and
- (v) is able to maintain and accommodate himself and any dependants adequately without recourse to public funds; and
- (vi) in the case of a person in possession of a work permit which is valid for a period of 12 months or less intends to leave the Isle of Man at the end of his approved employment; and
- (vii) holds a valid Isle of Man entry clearance for entry in this capacity except where he holds a work permit valid for six months or less or he is a British National (Overseas), a British overseas territories citizen, a British Overseas citizen, a British protected person or a person who under the British Nationality Act 1981 is a British subject.

#### **Leave to enter for work permit employment**

129. A person seeking leave to enter the Isle of Man for the purpose of work permit employment may be admitted for a period not exceeding the period of employment approved by the Department of Trade and Industry (as specified in his work permit), subject to a condition restricting him to that approved employment, provided he is able to produce to the Immigration Officer, on arrival, a valid Isle of Man entry clearance for entry in this capacity or, where entry clearance is not required, provided that the Immigration Officer is satisfied that each of the requirements of paragraph 128(i) - (vi) are met.

#### **Refusal of leave to enter as a work permit holder**

130. Leave to enter for the purpose of work permit employment is to be refused if a valid Isle of Man entry clearance for entry in this capacity is not produced to the Immigration Officer on arrival or, where entry clearance is not required, if the

Immigration Officer is not satisfied that each of the requirements of paragraph 128(i) – (vi) are met.

### **Tier 1 (Post-Study Work) migrants**

#### **245F. Purpose**

The purpose of this route is to encourage international graduates who have studied in the Isle of Man to stay on and do skilled or highly skilled work.

#### **245FA. Entry to the Isle of Man**

All migrants arriving in the Isle of Man and wishing to enter as a Tier 1 (Post-Study Work) Migrant must have a valid entry clearance for entry under this route. If they do not have a valid entry clearance, entry will be refused.

#### **245FB. Requirements for entry clearance**

To qualify for entry clearance as a Tier 1 (Post-Study Work) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, entry clearance will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements –

- (a) The applicant must not fall for refusal under the general grounds for refusal.
- (b) The applicant must not previously have been granted entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme), or as a Participant in the Fresh Talent: Working in Scotland Scheme.
- (c) The applicant must have a minimum of 75 points under paragraphs 66 to 72 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 3 of Appendix B.
- (e) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (f) If:
  - (i) the studies that led to the qualification for which the applicant obtains points under paragraphs 66 to 72 of Appendix A were sponsored by a Government or international scholarship agency, and
  - (ii) those studies came to an end 12 months ago or less

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

#### **245FC. Period and conditions of grant**

Entry clearance will be granted for a period of 2 years and will be subject to the following conditions:

- (a) no recourse to public funds,
- (b) registration with the police, if this is required by paragraph 326 of these Rules, and
- (c) no Employment as a Doctor or Dentist in Training, unless the applicant has obtained a degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.

#### **245FD. Requirements for leave to remain**

To qualify for leave to remain as a Tier 1 (Post-Study Work) Migrant, an applicant must meet the requirements listed below. Subject to paragraph 245FE(a)(i), if the applicant meets these requirements, leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements –

- (a) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.
- (b) The applicant must not previously have been granted entry clearance or leave to remain as a Tier 1 (Post-Study Work) migrant.
- (c) The applicant must have a minimum of 75 points under paragraphs 66 to 72 of Appendix A.
- (d) The applicant must have a minimum of 10 points under paragraphs 1 to 3 of Appendix B.
- (e) The applicant must have a minimum of 10 points under paragraphs 1 to 2 of Appendix C.
- (f) The applicant must have, or have last been granted, entry clearance, leave to enter or leave to remain:
  - (i) as a Participant in the Fresh Talent: Working in Scotland Scheme (under UK Immigration Rules),
  - (ii) as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme) (under UK Immigration Rules),
  - (iii) as a Student, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above,
  - (iv) as a Student Nurse, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above,

(v) as a Student Re-Sitting an Examination, provided the applicant has not previously been granted leave in any of the categories referred to in paragraphs (i) and (ii) above,

(vi) as a Student Writing Up a Thesis, provided the applicant has not previously been granted leave as a Tier 1 Migrant or in any of the categories referred to in paragraphs (i) and (ii) above,

(vii) as a Tier 4 Migrant, provided the applicant has not previously been granted leave as a Tier 1 (Post-Study Work) Migrant or in any of the categories referred to in paragraphs (i) and (ii) above, or

(viii) as a Postgraduate Doctor or Dentist, provided the applicant has not previously been granted leave as a Tier 1 (Post-Study Work) Migrant or in any of the categories referred to in paragraphs (i) and (ii) above.

(g) An applicant who has, or was last granted leave as a Participant in the Fresh Talent: Working in Scotland Scheme must be a British National (Overseas), British Overseas Territories citizen, British Overseas citizen, British protected person or a British subject as defined in the British Nationality Act 1981

(h) If:

(i) the studies that led to the qualification for which the applicant obtains points under paragraphs 66 to 72 of Appendix A were sponsored by Government or international scholarship agency, and

(ii) those studies came to an end 12 months ago or less

the applicant must provide the unconditional written consent of the sponsoring Government or agency to the application and must provide the specified documents to show that this requirement has been met.

#### **245FE. Period and conditions of grant**

(a) Leave to remain will be granted:

(i) for a period of the difference between 2 years and the period of the last grant of entry clearance, leave to enter or remain, to an applicant who has or was last granted leave as a Participant in the Fresh Talent: Working in Scotland Scheme, as a Participant in the International Graduates Scheme (or its predecessor the Science and Engineering Graduates Scheme). If this calculation results in no grant of leave then leave to remain is to be refused;

(ii) for a period of 2 years, to any other applicant.

(b) Leave to remain under this route will be subject to the following conditions:

(i) no access to public funds,

(ii) registration with the police, if this is required by paragraph 326 of these Rules, and

(iii) no Employment as a Doctor or Dentist in Training, unless the applicant:

(1) has obtained a primary degree in medicine or dentistry at bachelor's level or above from a UK institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System; or

(2) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Doctor in Training, and has been employed during that leave as a Doctor in Training; or

(3) has, or has last been granted, entry clearance, leave to enter or leave to remain that was not subject to any condition restricting him from taking employment as a Dentist in Training, and has been employed during that leave as a Dentist in Training.

### Appendix A – Attributes for Tier 1 (Post-Study Work) Migrants

66. An applicant applying for entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant must score 75 points for attributes.

67. Available points are shown in Table 9.

68. Notes to accompany the table appear below the table.

**Table 10**

<b>Qualifications</b>	<b>Points</b>
The applicant has been awarded: (a) a UK recognised bachelor or postgraduate degree, or (b) a UK postgraduate certificate in education or Professional Graduate Diploma of Education, or (c) a Higher National Diploma ('HND') from a Scottish institution.	20
(a) The applicant studied for his award at a UK or Isle of Man institution that is a UK recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System, or (b) If the applicant is claiming points for having been awarded a Higher National Diploma from a Scottish Institution, he studied for that diploma at a Scottish publicly funded institution of further or higher education, or a Scottish bona fide private education institution which maintains satisfactory records of enrolment and attendance.	20

The applicant's periods of UK study and/or research towards his eligible award were undertaken whilst he had entry clearance, leave to enter or leave to remain in the UK that was not subject to a restriction preventing him from undertaking a course of study and/or research.	20
The applicant made the application for entry clearance or leave to remain as a Tier 1 (Post-Study Work) Migrant within 12 months of obtaining the relevant qualification or within 12 months of completing a United Kingdom Foundation Programme Office affiliated Foundation Programme as a postgraduate doctor or dentist.	15
The applicant is applying for leave to remain and has, or was last granted, leave as a Participant in the International Graduates Scheme (or its predecessor, the Science and Engineering Graduates Scheme) or as a Participant in the Fresh Talent: Working in Scotland Scheme.	75

**Qualification: notes**

69. Specified documents must be provided as evidence of the qualification and, where relevant, completion of the United Kingdom Foundation Programme Office affiliated Foundation Programme as a postgraduate doctor or dentist.

70. A qualification will have been deemed to have been 'obtained' on the date on which the applicant was first notified in writing, by the awarding institution, that the qualification had been awarded.

71. If the institution studied at is removed from one of the relevant lists referred to in Table 10, or from the Tier 4 sponsor register, no points will be awarded for a qualification obtained on or after the date the institution was removed from the relevant list or from the Tier 4 sponsor register.

72. To qualify as an HND from a Scottish institution, a qualification must be at level 8 on the Scottish Credit and Qualifications Framework.”.

158. After Appendix H, insert new Appendix I:

**“Appendix I** – Pay requirements which the Lieutenant Governor intends to apply to applications for indefinite leave to remain from Tier 2 (General) and Tier 2 (Sportspersons) migrants made on or after 6 April 2016. The Immigration Rules are subject to change and applicants will need to meet the Rules in force at the date of application. However, it is the Lieutenant Governor’s intention that these rules, as they relate to pay, will replace paragraph 245HF from that date.

## **245HF. Requirements for indefinite leave to remain as a Tier 2 (General) or Tier 2 (Sportsperson) Migrant**

To qualify for indefinite leave to remain as a Tier 2 (General) Migrant or Tier 2 (Sportsperson) Migrant an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 2001.

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have spent a continuous period of 5 years lawfully in the Isle of Man, in any combination of the following categories of which the most recent period must have been spent with leave as a Tier 2 Migrant either:

(i) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant,

(ii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant.

(d) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing:

(i) that he still requires the applicant for the employment in question, and

(ii) subject to sub-paragraph (iii), in the case of a Tier 2 (General) or Tier 2 (Sportsperson) Migrant applying for settlement, that they are being paid for the employment in question either:

(1) at or above the appropriate rate for the job, as stated in the codes of practice for Tier 2 Sponsors published by the United Kingdom Border Agency, or

(2) a gross annual salary of £35,000 per annum, whichever is higher, where the appropriate rate or salary includes basic pay and allowances as set out in paragraph 79E or paragraph 100A of Appendix A.

(iii) where a Tier 2 (General) Migrant applying for settlement is recorded (at the time of application for settlement) by the Certificate of Sponsorship Checking Service as being sponsored to do a job that either:

(1) appears on the list of shortage occupations published by the UK Border Agency, or has appeared on that list during any time the applicant was being sponsored to do that job and during the continuous period of 5 years referred to in paragraph (c) above, or

(2) appears on the list of PhD-level occupation codes as stated in the Sponsor Guidance published by the UK Border Agency, or has appeared on that list during any time the applicant was being sponsored to do that job and during the continuous period of 5 years referred to in paragraph (c) above,

sub paragraph (d)(ii) does not apply and the Sponsor that issued the Certificate of Sponsorship for the employment in question must certify that the Tier 2 (General) migrant applying for Indefinite Leave to Remain is being paid at or above the appropriate rate for the job as stated in the codes of practice for Tier 2 Sponsors published by the United Kingdom Border Agency, where the appropriate rate or salary includes basic pay and allowances as set out in paragraph 79E of Appendix A.

(e) The applicant must provide the specified documents as set out in the application form for settlement and accompanying guidance to evidence the Sponsor's certification in subsection (d) (ii) - (iii).

(f) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom and Islands, in accordance with paragraph 33BA of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.

#### **245HG. Requirements for indefinite leave to remain as a Tier 2 (Minister of Religion) Migrant**

To qualify for indefinite leave to remain as a Tier 2 (Minister of Religion) Migrant, an applicant must meet the requirements listed below. If the applicant meets these requirements, indefinite leave to remain will be granted. If the applicant does not meet these requirements, the application will be refused.

Requirements:

(a) The applicant must not have one or more unspent convictions within the meaning of the Rehabilitation of Offenders Act 2001.

(b) The applicant must not fall for refusal under the general grounds for refusal, and must not be an illegal entrant.

(c) The applicant must have spent a continuous period of 5 years lawfully in the Isle of Man, in any combination of the following categories of which the most recent period must have been spent with leave as a Tier 2 Migrant (Minister of Religion):

(i) as a Tier 1 Migrant, other than a Tier 1 (Post Study Work) Migrant, or

(ii) as a Tier 2 (General) Migrant, a Tier 2 (Minister of Religion) Migrant or a Tier 2 (Sportsperson) Migrant,

(d) The Sponsor that issued the Certificate of Sponsorship that led to the applicant's last grant of leave must certify in writing that he still requires the applicant for the employment in question, and



(e) The applicant must have sufficient knowledge of the English language and sufficient knowledge about life in the United Kingdom, in accordance with paragraph 33BA of these Rules, unless the applicant is under the age of 18 or aged 65 or over at the time the application is made.

**2. In Appendix A – Attributes, after 79D insert:**

**79E. Appropriate salary for indefinite leave to remain**

An applicant applying for Indefinite Leave to Remain under paragraph 245HF is expected to demonstrate that he is being paid either at or above the appropriate rate for the job, as stated in the codes of practice for Tier 2 Sponsors published by the United Kingdom Border Agency, or a gross annual salary of £35,000 per annum, whichever is higher. The appropriate rate or £35,000 will be based on the applicant's gross annual salary to be paid by the Sponsor, as recorded in the Certificate of Sponsorship Checking Service entry to which the applicant's Certificate of Sponsorship reference number relates, subject to the following conditions:

- (i) Salary will be based on basic pay (excluding overtime);
- (ii) Allowances will be included in the salary where they are part of the guaranteed salary package and would be paid to a local settled worker in similar circumstances;
- (iii) Other allowances and benefits, such as a bonus or incentive pay, travel expenses and subsistence (including travel to and from the applicant's home country), will not be included.

**3. In Appendix A – Attributes, after paragraph 100 insert:**

**Appropriate salary for indefinite leave to remain**

100A. An applicant applying for Indefinite Leave to Remain under 245HF is expected to demonstrate that he is being paid either at or above the appropriate rate for the job, as stated in the codes of practice for Tier 2 Sponsors published by the United Kingdom Border Agency, or a gross annual salary of £35,000 per annum, whichever is higher. The appropriate rate or £35,000 will be based on the applicant's gross annual salary to be paid by the Sponsor, as recorded in the Certificate of Sponsorship Checking Service entry to which the applicant's Certificate of Sponsorship reference number relates, subject to the following conditions:

- (i) Salary will be based on basic pay (excluding overtime);
- (ii) Allowances will be included in the salary where they are part of the guaranteed salary package and would be paid to a local settled worker in similar circumstances;
- (iii) Other allowances and benefits, such as a bonus or incentive pay, travel expenses and subsistence (including travel to and from the applicant's home country), will not be included.”.

## EXPLANATORY NOTE

### Policy Background

#### *What is being done and why*

A summary of the policy changes contained in this Statement of Changes in Immigration Rules follows:

#### *Amendments to the Rules for Visitors*

Amendments are being made to the Visitor rules to create a new category for a small number of specified permitted activities where applicants will be allowed to receive fee payment. The new route will be restricted to those coming for one month or less and will be an alternative to requiring Sponsorship under the Points-Based System for these activities.

This new Visitor route (“A visitor undertaking permitted paid engagements”) will cater for a limited group of professionals who are invited to come to the Isle of Man to carry out an engagement that relates to their particular skill or expertise. The permitted activities allowed are :

- visits to give a lecture, or to examine students, participate in or chair selection panels;
- visits by overseas designated air-pilot examiners, to assess Isle of Man based pilots to ensure they meet that country’s national air regulatory requirements;
- visits to provide advocacy in a particular area of law as a qualified lawyer for the purposes of a court or tribunal hearing, arbitration or other form of alternative dispute resolution at the invitation of a client based in the Isle of Man or a foreign based client for legal proceedings in the Isle of Man;
- visits by professional artists, entertainers and sports-persons carrying out activities relating to their main profession at the request of an Isle of Man based arts or sports organisation or Isle of Man based broadcaster. This would include for example, artists, sculptors and photographers who are exhibiting and selling their works; authors doing book-signings and/or participating in literary prize panels; entertainers giving one-off or a short series of performances and sports-persons carrying out broadcasting or other activities relating to their field of sport.

#### *Amendments to Tier 1 of the Points-Based System*

Tier 1 of the Points-Based System caters for high value migrants, and was launched on 1st December 2009. Tier 1 currently consists of five categories: Tier 1 (Exceptional Talent), Tier 1 (General) – closed to new applicants on 6 June 2011, Tier 1 (Entrepreneur), Tier 1 (Investor) and Tier 1 (Post-Study Work).

The Tier 1 (Post-Study Work) category allows migrants almost unrestricted access to the Isle of Man labour market for two years after graduation. This category is being closed to new applicants. The Rules for this category (including the Rules for Attributes set out in Appendix A) are being added to the archive of historical Immigration Rules in Appendix F.

A new Tier 1 (Graduate Entrepreneur) category is being introduced for graduates who have been identified by Higher Education Institutions (HEIs) as having developed world class innovative ideas or entrepreneurial skills, to extend their stay in the Isle of Man after graduation to develop their business. Previously such graduates may have used Tier 1 (Post-Study Work) for this purpose. This new category will operate as follows:

- 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 for Tier 2 and Tier 5 if such a licence is held. The HEIs must also have an established process for identifying, nurturing and developing entrepreneurs amongst their undergraduate and post graduate population.
- Applicants will need to be in the Isle of Man and sponsored by the HEI from which they have been awarded a Bachelor degree, Masters degree or PhD. HEIs will have the freedom to decide how to best identify the strongest candidates.
- 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.
- Applicants 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 bring dependants and will be required to demonstrate that they, and their dependants, meet the Tier 1 maintenance requirements.
- Time in this category will not count towards the qualifying period for settlement in the Isle of Man. At the end of the second year in this category, migrants must either switch into Tier 1 (Entrepreneur) or leave the Isle of Man. The funds required to switch into Tier 1 (Entrepreneur) will be lowered for Tier 1 (Graduate Entrepreneur) Migrants who are registered as self-employed or as a director, from £200,000 to £50,000.
- This lower threshold will also apply to existing Tier 1 (Post-Study Work) Migrants who are registered as self-employed or as a director. These groups will not need additional funding when they subsequently apply to extend their Tier 1 (Entrepreneur) leave, but they will otherwise need to satisfy the full Tier 1 (Entrepreneur) extension criteria, including the requirement to have created at least two jobs for resident workers.

A simplification is being made to the Tier 1 (Entrepreneur) category, which is for migrants establishing or taking over a Isle of Man business. Where two applicants form an entrepreneurial team, the dates relating to their investment and business activity were previously tied to the date of the earlier team member's application. This requirement is considered to be unnecessary and is being removed, which will give the second team member more time to satisfy the criteria.

A change is being made to the Tier 1 (Entrepreneur) and Tier 1 (Investor) categories to ensure that migrants who have had leave in these categories within the last 12 months must satisfy the extension criteria if they wish to apply for further leave in these categories.

### *Amendments to Tier 2 of the Points-Based System*

The minimum skills threshold of jobs which may be sponsored under Tier 2 (General) and Tier 2 (Intra-Company Transfer) is being raised from jobs at NQF level 4 to NQF level 6. This change is being made following advice from the Migration Advisory Committee. The change will not apply to Tier 2 (General) applicants with an offer of a job on the Shortage Occupation List. The change will also not apply to migrants who have leave under one of these categories under the previous Rules and who apply in-country to extend their stay or change employment.

These changes introduce new post-study work provisions into Tier 2 further to the closure of Tier 1 (Post-Study Work). These provisions are as follows:

- The provisions are available to migrants in Tier 4 (General) and its predecessor categories (Student, Student Nurse, a Student Re-Sitting an Examination, Person Writing Up a Thesis, Overseas Qualified Nurse or Midwife, Postgraduate Doctor or Dentist, Student Union Sabbatical Officer) whose leave has not expired.
- Applicants must have lawfully completed and passed a UK degree, Postgraduate Certificate in Education or Professional Graduate Diploma of Education, or have completed a minimum of 12 months study in the Isle of Man towards a UK PhD, during their current leave (including previous leave, providing their leave has been continuous). The provisions are restricted to the named qualifications only and do not include, for example, vocational qualifications at degree level which are not degrees.
- The course must have been studied at an Isle of Man institution that is a recognised or listed body, or which holds a sponsor licence under Tier 4 of the Points Based System.
- Applicants will be able to apply from within the Isle of Man to switch into Tier 2 (General) following graduation without their sponsoring employer needing to satisfy the Resident Labour Market Test. All other Tier 2 (General) criteria will apply.
- At present, existing Tier 1 (Post-Study Work) Migrants can also switch into Tier 2 (General) without their sponsoring employer needing to satisfy the Resident Labour

Market Test, but only where they have worked for that employer for at least six months (or the job is otherwise exempt because, for example, it is in a shortage occupation). As the above provisions will mean that graduates switching from student routes will be exempt from the test without having previously worked for their employer, the six month requirement for existing Tier 1 (Post-Study Work) Migrants is being removed from 6 April in line with this.

- A change is being made so that no other migrants in student routes (including those who have studied the qualifications above but have not graduated) will be able to switch into Tier 2 from within the Isle of Man. This change is in line with the view that student routes should not be seen as routes to working or settling in the Isle of Man. If such students wish to apply under Tier 2 they will need to make an entry clearance application and will be required to meet the full criteria. If they are applying under Tier 2 (General) they will be subject to the Resident Labour Market Test.

These changes make a number of amendments to the periods of leave to remain granted to Tier 2 Migrants, as follows:

- A maximum period of 6 years in total as a Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant is being introduced. The various Tier 2 (Intra-Company Transfer) sub-categories are already subject to maximum periods of leave.
- To prevent this maximum period from being undermined, Tier 2 Migrants in any category (including Tier 2 (Intra-Company Transfer)) will not be able to be granted entry clearance to return as a Tier 2 Migrant in any category until at least 12 months after their previous Tier 2 leave expires. Equivalent arrangements in-country will prevent those here in another immigration category from switching into the Tier 2 (General) Migrant, Tier 2 (Minister of Religion) Migrant or Tier 2 (Sportsperson) Migrant sub-categories if they have held Tier 2 leave in the last 12 months.
- When Tier 2 was introduced on 26 July 2010, a transitional arrangement was implemented for migrants switching from previous routes that were deleted (such as work permit holders). This arrangement enabled such applicants to extend their stay in the Isle of Man under Tier 2 to 5 years in total, or longer in some circumstances, in a single successful application. The formula used to calculate such grants of leave is now unnecessarily complex and is potentially confusing to applicants and Immigration Office staff. The formula is being deleted and replaced with a simplified grant of 3 years plus 14 days leave to remain. Enough time has passed that no applicant should be disadvantaged by this change.
- A further simplification is being made to grants of leave to remain for Tier 2 (General), Tier 2 (Minister of Religion) and Tier 2 (Sportsperson). Previously a migrant who is already in one of these categories and applying to extend their stay would be granted different lengths of leave depending on whether they were

remaining in the same job, or changing job or employer. These grants of leave are now being standardised at the period of sponsorship plus 14 days, or 3 years plus 14 days from the date of decision, whichever is shorter. No applicant will be disadvantaged by this change.

Changes are being made to the Immigration Rules for Indefinite Leave to Remain applications made from April 2016 in the following categories of the Points Based System: Tier 2 (General), Tier 2 (Sportspersons) and Tier 2 (Ministers of Religion). We are publishing these rules now so that migrants and employers are aware of the changes. These changes are being set out in a new Appendix I to the Immigration Rules. Applications for Indefinite Leave to Remain made before April 2016 will be considered against the rules in place at the time.

A summary of the changes being made with effect from April 2016 are:

- A change is being made to the Tier 2 (General) and Tier 2 (Sportspersons) categories so that migrants who apply for Indefinite Leave to Remain in these categories will need to demonstrate that they are being paid either a gross salary of £35,000 per annum or the appropriate rate for their job as set out in Codes of Practice which are published on the UK Border Agency website, whichever is higher. This change applies a new minimum pay threshold to these categories.
- A change is being made to Appendix A – Attributes for Tier 2 (General) and Tier 2 (Sportspersons) Migrants, to explain how we will calculate the new pay threshold.
- A minor change is being made to the Tier 2 (Sportsperson) category to require the migrant's employer at the time of the application for Indefinite Leave to Remain, to provide specified evidence to demonstrate that the migrant meets the new pay threshold.
- Migrants who apply for Indefinite Leave to Remain and are being sponsored to do a job which appears or has appeared on either the list of PhD-level occupation codes as stated in the Sponsor Guidance published by the UK Border Agency, or the published shortage occupation list, during any time the applicant was being sponsored to do that job, will be exempt from the requirement to meet the revised £35,000 minimum pay threshold. They will still need to meet the requirement to be paid at the appropriate rate for their job as set out in the published Codes of Practice.
- The Tier 2 (Minister of Religion) rules for Indefinite Leave to Remain are being separated from the Tier 2 (General) and Tier 2 (Sportspersons) rules. This is because the settlement criteria for Ministers of Religion are not subject to the same changes.

Changes are being made to Tier 2 (General) to set out the Resident Labour Market Test details which must be stated on a Certificate of Sponsorship, and details of two existing exemptions from the test:

- Where the job offers a salary of at least £150,000;

- Where an applicant is continuing as a doctor or dentist in training under an existing NHS Training Number.

These details were previously set out in guidance.

Tier 2 Migrants are restricted to working in the job they are being sponsored for, plus limited supplementary employment and voluntary work. A change is being made so that if a Tier 2 (General), Tier 2 (Minister of Religion) or Tier 2 (Sportsperson) Migrant's application for further leave is decided early, they may continue to work in any existing job until the start date of their new job, as indicated by their sponsoring employer.

A change is being made to enable Tier 2 (Intra-Company Transfer) Migrants to switch into other Tier 2 categories, providing their Tier 2 (Intra-Company Transfer) leave was granted before 26 July 2010 and they are applying to change employer. This is an existing transitional arrangement relating to previous changes to the Rules, and was previously set out in guidance.

An amendment is being made to clarify that the list of graduate occupations in which Tier 2 (General) Migrants and Tier 2 (Intra-Company Transfer) Migrants can be sponsored to work is a list of occupations skilled to National Qualifications Framework level 4 or above.

#### *Amendments to Tier 4 of the Points-Based System*

The UK Government ran a public consultation on reform of the Tier 4 student immigration system from 7 December 2010 to 31 January 2011. The Statement of Changes SD 40/12 and 288/12 set out the first two sets of changes to the Rules governing Tier 4 following the consultation. This Statement sets out the third set of changes to the Rules governing Tier 4.

The following changes are being made to the Tier 4 (General) category, which caters for migrants aged 16 years and over who wish to come to the Isle of Man for the purpose of study following on from the review of Tier 4:

- Time at degree level
  - o These changes limit the time that can be spent studying under Tier 4 at degree level to five years, subject to the exceptions listed below:
    - o Migrants studying for a Masters degree at a Higher Education Institution (HEI), 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.
    - o 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.
    - o To those following courses in:

- 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.

o 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.

o This, together with existing restrictions on the time allowed studying below degree level, new rules on academic progression, and the closure of the Tier 1 (Post Study) route will ensure that student visas are not exploited as a means to remain in the Isle of Man indefinitely and without genuine academic intentions.

- Work Placements

o We are reducing the period of time that can be spent on a work placement from one half to one third of the course, meaning that students will have to spend a greater proportion of time undertaking formal study.

This will apply to all courses other than those at degree level or above at a higher education institution, or those forming part of a study abroad programme, where we will retain the current limit of half the time on a work placement.

- A change is being made to enable Tier 4 (General) migrants who are sponsored to train as a doctor or dentist on an NHS Foundation Programme to also undertake supplementary employment as a Doctor or Dentist in Training. Other Tier 4 Migrants will continue to be barred from employment as a Doctor or Dentist in Training. The restriction and this change assist with NHS workforce planning.
- A change is being made to enable a parent of child student to apply as a dependant, when the other parent is already lawfully present in the Isle of Man
- We are setting a maximum for the amount of pre-paid accommodation deposit that can be off set against maintenance requirements;
- Technical changes, corrections and updates.

### *Amendments to Tier 5 of the Points-Based System*

Tier 5 of the Points-Based System caters for youth mobility and temporary workers coming for primarily non-economic purposes. Tier 5 consists of two categories: Tier 5 (Youth Mobility Scheme) and Tier 5 (Temporary Workers). The Temporary



Workers category consists of five sub-categories: creative and sporting, charity workers, religious workers, government authorised exchange, and international agreement.

For the sake of clarity, these changes set out in the Immigration Rules various details of the types of role Tier 5 (Temporary Workers) may be sponsored to do in each sub-category. These details were previously set out in guidance. The criteria themselves remain unchanged.

A change is also being made, due to the closure of Tier 1 (Post-Study Work), to enable Tier 4 (General) Students to switch into Tier 5 (Temporary Worker) if they are applying under a Government Authorised Exchange scheme to undertake a period of professional training or work experience that is required to obtain a professional qualification or professional registration in the same professional field as their qualification, after graduation and before returning overseas.

Changes are being made to restrict schemes in the Government Authorised Exchange (GAE) sub-category which relate to internships, work experience/exchanges or youth exchanges to a maximum of 12 months. Other GAE schemes, relating to research, fellowship and training in the fields of science and medicine, will continue to attract leave of 24 months.

A change is being made to permit sportspersons entering under the Creative and Sporting sub-category to undertake some guest sports broadcasting work where this is not filling a permanent position.

#### ***Amendments to maintenance funds for all Tiers of the Points-Based System***

These changes uplift the maintenance funds required by Points-Based System Migrants and their dependants. These funds have not changed since the introduction of the Points-Based System and are being increased to reflect changes in the costs of living and studying in the Isle of Man.

The changes to maintenance funds are as set out in the table below. As at present, Tier 1 (Investor) and Tier 1 (Exceptional Talent) migrants and their dependants will be exempt from the maintenance requirement. Funds stated in relation to Tier 4 Migrants are in addition to 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.

A change is being made to expand the existing rule regarding verification of maintenance funds. No points will be awarded for maintenance 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. This rule previously applied to Tier 4 Migrants and their dependants and is now being expanded to include all Points-Based System Migrants and their dependants. A list of financial institutions which do not satisfactorily verify financial statements is published on the UK Border Agency website and will be referred to by the Isle of Man Immigration Office when considering applications.

A change is being made to remove the automatic granting of maintenance points to migrants switching into Tier 2 under the post-study work provisions. This is because, as described earlier in this Explanatory Memorandum, the post-study work provisions will no longer require applicants to already be in employment with their Sponsor (which provided some guarantee that they were able to support themselves financially).

A clarification is being made to confirm that the 28-day and 90-day periods (during which maintenance funds must be held by applicants) are calculated in the same way for applications by dependants as they are for applications by main applicants. The specified period of time is taken as ending from the date of the closing balance of the most recent supporting document, such as a bank statement, and this end date must be no earlier than 31 days before the date of application.

An amendment is being made so that if an A-rated Sponsor certifies maintenance on behalf of a Tier 2 Migrant's dependants, that certification must be for the first month of the dependant's leave, rather than the first month of the Tier 2 Migrant's employment.

#### *Other cross-cutting amendments to the Points-Based System*

This Statement of Changes revises Appendix B of the Immigration Rules, which sets out the English language requirements for the Points-Based System. The changes are being made to remove multiple cross-references between paragraphs, which were complex and potentially confusing. The requirements themselves are largely unchanged, other than the following:

- The changes clarify that the “basic user standard” required of some applicants means level A1 of the Council of Europe's Common European Framework for Language Learning.
- A change is being made so that no points will be awarded for meeting the English language requirement in a previous grant of leave if false representations were made or false documents or information were submitted (whether or not to the applicant's knowledge) in relation to the requirement in that previous application.
- Changes are being made to the existing transitional arrangements for migrants applying to switch into Tier 2 from deleted predecessor categories. The transitional arrangements were introduced at the same time as Tier 2. They enabled migrants in deleted predecessor categories to extend their total stay in the Isle of Man to five years without having to meet certain new Tier 2 requirements, including English language ability. These changes are to the benefit of applicants, and reflect existing Isle of Man Immigration Office practice, but were not previously set out in Appendix B. The changes mean that these applicants are exempt from needing to prove their English language ability when they switch into Tier 2 and will continue to be exempt when they apply for further extensions in the Isle of Man, including extensions to take their total stay beyond five years. They will still be required to show they have

sufficient knowledge of the English language and life in the UK and Islands if they wish to apply for settlement. The changes also extend the transitional arrangements for other Tier 2 categories to include Tier 2 (Sportsperson) as well.

A change is being made so that children born in the Isle of Man to Points-Based System Migrants may have their stay regularised as dependants of Points-Based System Migrants. Previously the only way for such children to have their stay regularised was outside the Points-Based System.

Amendments are being made to the Rules for Tier 2 (Minister of Religion) and the religious workers sub-category of Tier 5 (Temporary Worker) to bring an existing requirement within the Immigration Rules. The requirement, to provide a letter confirming details of the position the applicant is being sponsored for and how the Resident Labour Market Test is satisfied, was previously set out in guidance.

A clarification is being made to the meaning of “ceases working” in the grounds for curtailment of leave for Tier 2 Migrants and Tier 5 (Temporary Worker) Migrants. The clarification confirms that leave may be curtailed if a migrant continues to be employed by, but ceases working for, their sponsoring employer for a month or longer, unless this is solely to maternity, paternity or adoption leave, or long-term sick leave.

The rule that a Certificate of Sponsorship may not be used for more than one application, regardless of whether the application was approved or refused, but may be re-used if an application is rejected as invalid or withdrawn, is being standardised across all Tier 2 categories and the Tier 5 (Temporary Worker) category. Previously this rule operated in a slightly different way in different categories.

#### ***Amendments to Overseas Domestic Workers in Private Households***

This category enables people coming to the Isle of Man to bring with them their foreign domestic staff, for example nannies, chauffeurs and cooks. The following changes are being made for applicants who enter this category under these new Rules (Those already in the category under the existing Rules will not be affected):

- Entry into the Isle of Man will be limited to a maximum of six months, with no extensions beyond this time;
- Applicants will only be able to enter the Isle of Man where they are accompanying their employer (or the employer’s spouse or child) who is also coming here at the same time as a visitor or who has come here in that capacity;
- Applicants will be required to leave the Isle of Man at the same time as their employer;
- Applicants will not be able to change employer whilst in the Isle of Man;
- Applicants will not be able to apply for settlement in the Isle of Man;

- Applicants will not be able to bring dependants with them, unless they qualify in their own right, for example as a visitor.

### *Amendments to the rules relating to curtailment*

The Immigration Rules currently set out when the Isle of Man Immigration Office may curtail leave to enter or remain where a migrant is non-compliant. Discretionary casework requires case by case consideration. The aim of the new policy is to strengthen the Immigration Office's response to migrant non-compliance by introducing a set of circumstances under which curtailment will be mandatory, not requiring case by case consideration. These cases will either be triggered by notifications received from Sponsors under Tiers 2, 4 and 5 of the Points Based System which confirm that sponsorship has been withdrawn from a migrant for reasons of non-compliance or by way of Immigration Office investigations and / or Sponsor compliance visits that reveal such non-compliance.

Mandatory curtailment will only occur where that temporary migrant is not pursuing the purpose of their leave. Migrants subject to mandatory curtailment will normally be given 60 days to make an application to vary their leave or change their Sponsor. This will enable any migrants who have parted company with their Sponsor for legitimate reasons to remain in the Isle of Man and seek a replacement Sponsor. Those who do not make a successful application to vary their leave and/or their Sponsor within the 60 days following mandatory curtailment will be subject to appropriate enforcement action. Simplifying the curtailment process in these cases will enable the Isle of Man Immigration Office to deliver a more robust and sustainable enforcement response against non-compliant temporary migrants.

However, in some circumstances curtailment will not be mandatory and the Isle of Man Immigration Office will consider on the facts of the case whether curtailment is appropriate. This will include cases where:

- the migrant is under 18 or has a child dependant.
- the migrant has an outstanding application with the Isle of Man Immigration Office for leave to enter or remain with another sponsor or in another immigration category or has a pending appeal under section 82 of the Nationality, Immigration and Asylum Act 2002.

### *Other amendments*

Changes are being made to the General Grounds for Refusal, so that applicants in any category may be refused if they have made false representations in order to obtain supporting documents for their application, for example, using false representations to obtain a genuine qualification.

The following redundant provisions are being deleted from the Rules:

Work permit employment and Multiple Entry work permit employment – Work permits and Multiple Entry work permits ceased to be issued to non-EEA nationals following the introduction of Tier 2 on 26 July 2010. The existing settlement provisions being are maintained for migrants who currently have leave as work permit holders.

- Extension provisions in the category for Overseas Qualified Nurses and Midwives. This category closed to new applicants on 26 July 2010 and permitted a total maximum stay of 18 months. Therefore there will be no remaining applicants who can qualify for extension.

The Rules for the above categories are being added to the archive of historical Immigration Rules in Appendix F.

A small number of minor technical corrections are being made to cross-references and paragraph numbering in various sections of these Rules.

Changes are being made to paragraph 276A1 to remove an unintended requirement. Before 2 April 2007 it was not possible to grant limited leave to remain on the basis of long residence. On 2 April 2007, paragraph 276A1 and paragraph 276A2 were added to the Immigration Rules to allow long residence applicants to be granted an extension of limited leave to remain if they met all the requirements for indefinite leave on the basis of long residence, except for the knowledge of language and life in the UK requirement. Since 6 April 2011 a person who applies for settlement must show that they do not have any unspent convictions (as defined by the Rehabilitation of Offenders Act 1974). This is a requirement for settlement in all immigration routes, but there is no such requirement for further leave to remain.