

## **Points Based System – Tier 2**

### **Summary Guidance**

This document provides a summary of the policy guidance for Tier 2 (Skilled Workers) of the Points Based System (PBS). Tier 2 replaces the current Work Permit system and becomes effective on 27 November 2008.

The full UKBA Policy Guidance document for Tier 2 can be accessed via:  
[www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2guidance.pdf](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2guidance.pdf)

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## **General introduction**

The UK Border Agency (UKBA) has introduced a new immigration control system called the Points Based System (PBS) for managing applications from people who wish to come to the UK to work. Under the new system anyone wanting to come to or remain in the UK will need to show that they meet immigration requirements and that they have enough points to qualify. Points are earned in different ways, such as qualifications and earnings, and in the majority of cases migrants will need a sponsoring employer.

PBS has five different tiers. Tier 2 is the Tier which replaces the Work Permit system. The University employs migrant workers with other immigration permissions, including PBS Tier 1 and dependent and student visas. This summary guidance document refers only to Tier 2, where permission for the migrant worker to come to the UK is dependent on them taking up skilled employment for which the Sponsor could not find a suitable resident worker.

The University of Birmingham has been licensed by the UKBA as a Tier 2 Sponsor. When the University wishes to employ a migrant worker under Tier 2, it will issue the applicant with a certificate of sponsorship. Under Tier 2 (Skilled Workers) an applicant must have both a sponsor and a valid certificate of sponsorship before they will qualify for 'entry clearance' to the UK.

### **Applicant websites for entry clearance/grant to leave information:**

Applicants making an application from outside the UK for entry clearance should go to the UK Visas website where they can find the forms and more information on how to complete and submit them: [www.ukvisas.gov.uk/en/howtoapply/vafs/](http://www.ukvisas.gov.uk/en/howtoapply/vafs/)

Applicants making an application from inside the UK for an initial grant of leave or an extension of their existing leave or a change of employment should go to the UKBA website to find the relevant application form: [www.ukba.homeoffice.gov.uk/workingintheuk/tier2/](http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/)

### **When to apply for entry clearance/grant to leave**

Applications must be made within three months from the date the Certificate of Sponsorship was issued. Application must not be made more than three months before the start date on the Certificate of Sponsorship. Applications made from inside the UK should be made before the current leave expires, otherwise the migrant may be classed as an 'overstayer', which could affect any future applications they make.

Tier 2 of PBS (Skilled Workers) has four categories – General, Minister of Religion, Sportsperson and Intra-Company Transfer. The category that applies to the University of Birmingham is the 'General' category, for people coming to the UK with a job offer to fill a gap that cannot be filled by a resident worker.

Under Tier 2 (General) an applicant must score 70 points as follows:

- at least 50 points for attributes; and
- 10 points for English language\*; and
- 10 points for maintenance\*\* (funds).

\* If an applicant is applying to extend his/her permission to stay under Tier 2, s/he does not have to meet the English language requirement if the extension does not take the length of stay to more than three years.

\*\* If an applicant is applying to extend his/her permission to stay under Tier 2, s/he does not have to meet the maintenance requirement.

## **Self-assessment**

The UKBA website has a 'points-based calculator' that enables applicants to self-assess whether they are likely to score enough points for their application to succeed. The points-based calculator provides a summary of the information an applicant enters, the points awarded for each section, and the overall score. The results of the points-based calculator show the possible points an applicant might score and does not guarantee the application will be successful. UKBA will make its decision after receiving the full application and the evidence to support it.

The points-based calculator is on the UKBA website at: [www.ukba.homeoffice.gov.uk/pointscalculator](http://www.ukba.homeoffice.gov.uk/pointscalculator)

## **Criteria for Points**

Migration Advisory Committee (MAC) recommended changes 09/09 implemented wef 6 April 10.

<b>Criteria for Points</b>	<b>What UKBA awards points for</b>	<b>Points awarded</b>
Sponsorship	If the job is on the shortage occupations list – N/A to UoB	50
Up to 50 points	Transitional arrangements	50
	If the job meets the resident labour market test – as applicable at UoB	30
	Switching from a post-study category	30
	Extension (RLMT not required)	30
	Qualifications	PhD or Masters degree and above
Up to 15 points available	Bachelor's degree or above	10
	GCE A-level or equivalent or above	5
	None, or below GCE A-level	0
	Prospective earnings	£32,000+
Up to 25 points available	£28,000–£31,999.99	20
	£24,000–£27,999.99	15
	£20,000–£23,999.99	10
	Under £20,000	0
	Maintenance	£800 if the migrant is applying from inside the UK £800 if the migrant is applying from outside the UK And £533 for each dependent
10 points mandatory		
English Language Skills	If the migrant is a national of a majority English speaking country or If the migrant has passed an English language test or If the migrant has a degree taught in English	10
10 points mandatory		

## **Minimum skill level and appropriate salary rate**

To score points for sponsorship, migrants must have a Certificate of Sponsorship from a licensed sponsor. The Certificate of Sponsorship must confirm that the job is at or above N/SVQ level 3 and is paid at or above the appropriate rate, as set out in the codes of practice on the website at:

[www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/)

## **Required documents**

The applicant must ensure s/he provides all of the necessary supporting documents at the time s/he submits his/her application. UKBA will only accept the documents specified in its guidance. If the applicant does not provide the specified documents, UKBA will not contact him/her to request them. Therefore, if the applicant fails to send the correct documents UKBA may refuse the application. Any

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

Where a document is not in English or Welsh, the original must be accompanied by a fully certified translation by a professional translator. This translation must include details of the translator's credentials and confirmation that it is an accurate translation of the original document. It must also be dated and include the original signature of the translator.

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

If there are any doubts about an application or the documents submitted, then the UKBA will carry out verification and/or other checks (see page 6 of the full Policy Guidance document). Any such doubts could result in an application being refused.

Additional evidence for sponsored students – if an applicant has been in the UK within the last 12 months as a student or post-grad doctor or dentist sponsored by a Government or international scholarship agency, then the applicant must provide evidence that the sponsor gives permission for the applicant to remain or re-enter the UK (see page 8 of the full Tier 2 Policy Guidance document).

### **Certificate of sponsorship**

To apply under Tier 2, an applicant must have a sponsor. The sponsor will need to assign a certificate of sponsorship before the applicant can apply for permission to enter or remain in the UK. The certificate of sponsorship acts as an assurance that the applicant is able to undertake a particular job and intends to do so. The certificate of sponsorship is not an actual certificate or paper document but is a virtual document similar to a database record. Each certificate of sponsorship has a unique reference number and contains information about the job for which the certificate of sponsorship is being issued and the applicant's personal details.

Within the Sponsorship Management System (the system that sponsors use to assign a certificate of sponsorship) an applicant can only have one 'assigned' certificate of sponsorship for a given period of leave. A certificate of sponsorship is 'assigned' when a sponsor has assigned it to an applicant, but that applicant has not yet used that certificate of sponsorship's reference number to make an application for leave.

If an applicant has given his/her personal details to one prospective sponsor, and that sponsor assigns a certificate of sponsorship reference number to that applicant, then no other prospective sponsor will be able to assign a certificate of sponsorship to that applicant for the same period of leave. It is very important that where possible an applicant only gives his/her personal details (e.g. passport number) to one prospective sponsor with whom s/he intends to work.

If an applicant does not want to take up the job because s/he wishes to take up an offer of a job from a different sponsor, s/he must ask the sponsor to withdraw the certificate of sponsorship. A certificate of sponsorship can be withdrawn/cancelled at any time by either UKBA or the sponsor.

A valid certificate of sponsorship is one that i) has the same details on it as in the applicant's passport, ii) was assigned no more than three months prior to the leave application and iii) has not been withdrawn/cancelled by the sponsor or UKBA.

The certificate of sponsorship will expire if it is not used for a leave application within three months of it being assigned. If the applicant submits an application using a certificate of sponsorship that has expired, the application will be refused. The applicant must get a new certificate of sponsorship from his/her sponsor.

The fact that a certificate of sponsorship has been issued does not guarantee that the applicant will succeed in obtaining entry clearance, or leave to remain. The applicant must meet the conditions for the tier and category and apply for entry clearance or leave to remain.

A certificate of sponsorship is valid for one application only. If the application is unsuccessful, a new certificate of sponsorship will need to be issued before a further application is made.

### **Periods of leave granted**

Entry Clearance and Leave to Remain where previous grant of leave was not as a Tier 2 migrant.	For a maximum period of 3 years and 1 month, or the period given in the certificate of sponsorship plus 1 month, whichever is shorter.
Leave to Remain where previous grant of leave was as a Tier 2 migrant and the application is because of a change of employment.	For a maximum period of 3 years, or the period given in the certificate of sponsorship plus 14 days, whichever is shorter.
Leave to Remain (Extension) where previous grant of leave was as a Tier 2 migrant.	For a maximum period of 2 years or the period given in the certificate of sponsorship plus 14 days, whichever is shorter.
Leave to Remain (Extension) where the application is being made under the transitional arrangements.	For the period of time the migrant needs to get to settlement, or the period given in the cert. of sponsorship, whichever is shorter.

The applicant will be able to enter the UK up to 14 days before his/her start date, the date given by his/her sponsor on the certificate of sponsorship.

### **Switching into Tier 2 (General)**

Applicants can switch into Tier 2 from other existing immigration schemes. The most common switches for University applicants and employees will be from:

- Tier 1 – Highly Skilled Worker
- Tier 1 – Post-Study Worker
- Student Visa routes

Full list of permissible switches is given below.

If switching from Post-Study into Tier 2 then the applicant can claim 30 points for Sponsorship without the need to advertise the position, providing s/he has worked in his/her present job for his/her sponsor for at least six months prior to the application, and will continue to work in that job.

Switching is allowed for applicants who have, or were last granted, leave in one of the following categories: Any Tier 1, Tier 2 or Tier 4 category; Highly Skilled Migrant Programme; Innovator; International Graduates Scheme; Business and Commercial work permits (except multiple entry work permits); Sports and Entertainment work permits (except multiple entry work permits); Jewish Agency Employee; Member of the Operational Ground Staff of an Overseas-owned Airline; Minister of Religion, Missionary or Member of a Religious Order; Overseas Qualified Nurse or Midwife; Person Writing Up a Thesis; Postgraduate Doctor or Dentist; Representative of an Overseas Business; Representative of an Overseas Newspaper, News Agency or Broadcasting Organisation; Student; Student Nurse; Student Re-Sitting an Examination; Student Union Sabbatical Officer.

Migrants who are currently in the UK in an eligible immigration category and have been in the UK for less than five years may be able to apply under transitional arrangements. See page 13 for further details.

## **Conditions of leave**

The conditions of leave for Tier 2 applicants are: i) they must be at least 16 years old, ii) they have no recourse to public funds, iii) they have to register with the police if required and iv) employment is limited to working for the sponsor in the employment that the certificate of sponsorship records that the migrant is being sponsored to do, and supplementary employment, and voluntary work.

All applicants wanting to travel to the UK under Tier 2 of the Points Based System will need prior entry clearance. All applicants applying for either entry clearance or further leave to remain in the UK will need a valid certificate of sponsorship reference number before s/he can submit his/her application.

## **Resident labour market test**

Jobs at the University are not included in the current list of 'shortage occupations' and therefore a resident labour market test (RLMT) must be completed for all jobs before a migrant worker can be assigned a Certificate of Sponsorship for a vacant job. The shortage occupation list is reviewed and updated by the Migration Advisory Committee. For further details re the MAC see:

[www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/](http://www.ukba.homeoffice.gov.uk/aboutus/workingwithus/indbodies/mac/)

The UKBA definition of the shortage occupations is:

*Specific types of work that have been officially listed as ones for which there are not enough resident workers to fill available jobs. Employers who wish to hire a worker from outside the European Economic Area to fill a vacancy that is on a list of shortage occupations may do so without carrying out a resident labour market test. (UKBA)*

The UKBA definition of the resident labour market is:

*The pool of workers who qualify as resident workers. A resident worker is a person who is a national of the European Economic Area (EEA) or is legally settled in the United Kingdom with permission to work here.*

The RLMT is used to protect the domestic labour market by ensuring that a migrant worker can only come to work in the UK where there is no suitable resident worker to fill the job. For the applicant to claim points for a job that is subject to RLMT the sponsor must have followed the code of practice relevant to that job, before assigning a certificate of sponsorship. The RLMT requires that the vacancy is advertised for a minimum of four weeks on appropriate websites and/or in appropriate press in order to ascertain if there are any suitably skilled resident workers who could fill the job.

**Exemptions** – If an applicant/employee is switching from Tier 1 Post-Study into Tier 2, providing s/he has worked for the sponsor for at least six months immediately before the date of application, is applying to continue in the same job s/he was doing on the date of application and is applying from inside the UK. The sponsor will not need to undertake a RLMT but the applicant can still claim the 30 points for Sponsorship. Applicants must provide additional evidence that they have worked for the sponsor for at least six months immediately prior to the date of their application via payslips, bank/building society statements/passbook (see page 7 of the full Tier 2 Policy Guidance document).

**Named Candidates** – 'Named Researchers' are deemed to meet the RMLT as they will not be filling established posts or displacing resident workers. *'Named Researchers' are defined as those whose employment is linked to specific research grants awarded to Higher Education Institutions or Research Institutions by external organisations. They will be named specifically on the research grant because their knowledge and expertise in the relevant field means they are the only person able to undertake the research. If they were unable to come to the UK the research grant would be cancelled* (excerpt from Section M of the UKBA codes of practice).

[www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/)

For jobs advertised on or after 31 March 2009, the Jobcentre Plus reference number should be stated on the Certificate of Sponsorship (except for named researchers and directors with salary package of at least £130,000).

## **Qualifications**

An applicant can claim points according to the level of his/her qualification, as detailed below, on submission of the documents associated with the qualification.

PhD or Masters degree or above	15 points
Bachelors degree or above	10 points
GCE A-level or equivalent or above	5 points
None, or below GCE A-level	0 points

An applicant can only score points for one qualification. To score the points, the qualification must meet, or exceed, the UK recognised standard of an appropriate sub degree level qualification, Bachelors, Masters or PhD, as verified by the National Academic Recognition Information Centre for the UK (UK NARIC). UK NARIC is a private company that specialises in comparing overseas qualifications to UK academic levels.

Points can also be awarded for a vocational and professional qualification where it is at least the same as one of the levels detailed above, as long as it can be verified by UK NARIC or by the appropriate UK professional body.

An applicant should check the level of his/her qualification by using the UKBA points based calculator: [www.ukba.homeoffice.gov.uk/pointscalculator](http://www.ukba.homeoffice.gov.uk/pointscalculator).

For academic qualifications, if the applicant cannot find details of his/her qualification on the points based calculator, s/he should contact UK NARIC directly for an assessment of the level of the qualification. If UK NARIC confirms it is of the required level, the applicant must obtain a letter and/or confirmation certificate from UK NARIC. UK NARIC may charge a fee for confirming qualifications. UK NARIC website is: [www.naric.org.uk](http://www.naric.org.uk).

For professional/vocational qualifications, where the applicant is unable to find details of his/her qualification on the points based calculator, s/he should obtain written confirmation from the appropriate UK professional body of the qualification's equivalence to UK academic levels.

Evidence of a qualification must be an original Certificate of Award detailing the applicant's name, the title of the award, the date of the award and the name of the awarding institution. Please note that original provisional certificates are not acceptable. This document must always be provided unless the applicant is awaiting graduation but has successfully completed the degree, in which case the UKBA will consider an original academic transcript which is on the institution's official paper and details the applicant's name, the name of the academic institution, the course title and confirmation of the award.

N.B. Where an applicant can demonstrate that s/he has or was last granted leave under Tier 1 (General – highly skilled) or Tier 2 (General – skilled worker), the applicant should submit a copy of his/her grant letter detailing the points that were previously awarded for the qualification.

For more details on the specific requirements for qualification documentation and evidence see page 8 of the full Tier 2 Policy Guidance document.

## **Prospective earnings** effective from 6 April 2010

An applicant can claim the following points according to the gross annual amount of prospective earnings offered by his/her sponsor:

£32,000 or more	25 points
£28,000–£31,999.99	20 points
£24,000–£27,999.99	15 points
£20,000–£23,999.99	10 points
under £20,000	0 points

If the salary does not meet the rate set out in the codes of practice, the application will be refused even if the applicant scores enough points for his/her prospective earnings.

[www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/)

The salary may be paid in the United Kingdom or abroad. If the migrant will be paid abroad in a currency other than pounds sterling, the salary amount entered on the Certificate of Sponsorship will be based on the exchange rate published on [www.oanda.com](http://www.oanda.com) on the day the Certificate of Sponsorship is assigned.

If the salary does not meet the rate set out in the codes of practice, the application will be refused even if the applicant scores enough points for his/her prospective earnings.

[www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/](http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/employingmigrants/codesofpractice/)

When assessing the appropriate rate and awarding points for prospective earnings, UKBA will consider basic pay (excluding overtime) plus any allowances, such as London weighting, which would also be paid to a settled worker in similar circumstances, provided these allowances are part of the guaranteed salary package. UKBA will **not** consider other benefits, such as bonus or incentive pay, travel and subsistence (including travel to and from the migrant's home country).

Where the applicant is working in the UK for less than 12 months, s/he should claim the appropriate points for his/her annualised earnings. This is only applicable to applicants on short term contracts. An applicant working part-time will only be able to claim points for his/her actual earnings.

The University will enter the salary details on the certificate of sponsorship, as evidence for the applicant to claim the relevant points for prospective earnings. Applicants do not need to send any other evidence of their prospective earnings.

### **English language requirement**

Applicants applying to enter or remain in the UK are required to speak English to a certain level. This includes being able to understand and use familiar everyday expressions and very basic phrases, to introduce himself/herself and others, and to ask and answer questions about very basic personal details.

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

- be a national of a majority English speaking country (see below); or
- pass an approved English language test; or
- hold a degree that was taught in English which must be equivalent to a UK Bachelors degree or above.

**Exemption:** An applicant meets the English Language requirement, without the need to provide evidence, if s/he:

- scores 50 points for sponsorship under the transitional arrangements; or
- was last granted leave under Tier 1 (General), Tier 1 (Entrepreneur) or HSMP under the rules introduced on 5 December 2006; or



- was last granted leave under a Tier 2 category (having already provided evidence of meeting the English language requirement) and is applying for an extension within the same category; or
- is making an application as a result of a change of employment, where the applicant has already provided evidence of meeting the English Language requirement as a Tier 2 migrant

Applicants who are unable to score 10 points in the section for English language requirements will be refused. Under Appendix B of the Immigration Rules, UKBA will refuse these applications even if the applicant has attained the pass mark of 50 for attributes and has met all the other requirements of the Immigration Rules for permission to stay as a Tier 2 migrant.

### **Majority English speaking 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.

As evidence of being a national of one of these countries, applicants must submit a current original passport or travel document.

The only valid exceptional circumstances in which alternative specified documents may be provided are where the applicant's current passport/travel document has been lost/stolen/expired and been returned to the relevant authorities or been sent to another part of the UKBA. In such cases the applicant may exceptionally provide either a current national identity document or an original letter from the applicant's home government or embassy. Further details can be found on page 12 of the full Tier 2 Guidance Policy document.

### **English language test**

Applicants must provide an original test result certificate evidence of passing an English language test at the level appropriate to the Tier and category under which s/he is applying. UKBA will only accept test certificates from providers that have been assessed as meeting its requirements. Details of approved English language tests are available on the UKBA website at: [www.ukba.homeoffice.gov.uk/workingintheuk/tier2/general/eligibility/](http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/general/eligibility/).

Applicants with disabilities are not exempt from the English Language requirement and should contact a test provider for details of support that can be provided whilst sitting the test.

If an applicant is in the UK and his/her current leave is about to expire, s/he may need to submit his/her application before s/he has taken, or received the results of, an English language test. The date of the test must be submitted within 10 days of submitting the application. Once the test has been sat and the results received the applicant must submit the certificate within 5 working days. The application will be held open for the applicant to complete this process. If the test is not passed on first attempt then the application will not be held open to allow for more attempts to be made. Further details can be found on page 15 of the full Tier 2 Guidance Policy document.

### **Degree taught in English**

An applicant may provide evidence that s/he holds a degree which is i) equivalent to UK Bachelors level or higher (as recognised by UK NARIC) AND ii) was taught in English. The qualification must be academic – professional or vocational qualifications are not acceptable as evidence of English language skills.

Where the degree was taken in a majority English speaking country, listed below, we will assume it to have been taught in English: Antigua and Barbuda; Australia; The Bahamas; Barbados; Belize; Dominica; Grenada; Guyana; Ireland; Jamaica; New Zealand; St Kitts and Nevis; St Lucia; St Vincent and the Grenadines; Trinidad and Tobago; UK and USA. Please note that Canada is not on this list.

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

An applicant can confirm that his/her degree was taught in English by using the English language section of the points based calculator on the UKBA website at:  
[www.ukba.homeoffice.gov.uk/pointscalculator](http://www.ukba.homeoffice.gov.uk/pointscalculator).

Where the applicant has sought confirmation of his/her degree from UK NARIC s/he must include the letter/confirmation certificate with his/her application.

Where an applicant needs to provide alternative confirmation that a degree was taught in English, s/he can submit a letter from his/her university. Further details can be found on page 13 of the full Tier 2 Guidance Policy document.

### **Maintenance requirement**

Applicant must score 10 points for maintenance by showing they have at least £800 of available funds. This requirement can be met by:

- scoring 50 point for applying under the transitional arrangements
- scoring 30 points for switching from post study category (in-country applications only)
- having entry clearance or leave to remain as Tier 2 migrant, work permit holder
- having personal savings of £800 which must have been held for at least three months immediately before the date of application
- the sponsor certifies the migrant's maintenance

Any dependants wishing to join the main applicant must also provide evidence that they have access to sufficient funds. The maintenance requirement for each dependent accompanying a sponsored applicant is £533. The sponsor is also able to certify maintenance for any dependants. For further details see: [www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/dependants](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/dependants)

Any applicants who are unable to obtain 10 points in the maintenance requirements section will not be successful in his/her application, even if s/he scores the required number of points for his/her given category and meets all other requirements.

### **Evidence of own personal savings**

The evidence to support personal savings of £800 for at least three months must be original, on the official letter-headed paper or stationery of the organisation and have the official stamp of that organisation. It must have been issued by an authorised official of that organisation. Evidence must be in the form of cash funds, a loan or official financial or government sponsorship available to the migrant. Other accounts or financial instruments such as shares, bonds, pension funds, etc, regardless of notice period are not acceptable. All evidence must be dated no more than one month before the application is submitted.

The specified documents that will be accepted as evidence of the maintenance requirement are i) personal bank or building society statements, ii) building society pass book, iii) letter from a bank, building society or financial institution. All need to confirm the necessary funds and that the balance has met or exceeded this level for previous three months.

### **Evidence of the sponsor certifying the maintenance**

If the sponsor certifies maintenance, this must be confirmed on the Certificate of Sponsorship by ticking the appropriate box on the certificate application form. Only A-rated sponsors can certify maintenance.

Sponsors should identify whether there is a requirement to certify maintenance prior to assigning a Certificate of Sponsorship and tick the appropriate box on the Certificate of Sponsorship. However if the box is not ticked UKBA will accept a supporting letter to certify maintenance. The letter, which can be posted, faxed, or scanned and email to the applicant, must be on official letter-headed paper or stationery of the organisation, be signed by a senior official and must show:

- the applicant's name
- the applicant's certificate of sponsorship reference number
- the sponsor's name and logo

- confirmation that the sponsor will, should it become necessary, maintain and accommodate the migrant until the end of his/her first month of employment
- whether the sponsor is limiting the funds they will offer and what the limit is
- and has certified the maintenance.

If the sponsor has not ticked the 'certifying maintenance box' and wishes to certify maintenance via a supporting letter, it is recommended that a 'sponsor note' is added to the certificate to clarify that the sponsor wishes to certify maintenance and that as this was not confirmed on the certificate, the sponsor has instead issued the migrant with a supporting letter to this effect.

### **Supplementary employment**

An applicant can undertake work that is supplementary to that for which his/her certificate of sponsorship has been issued as long as it is i) in the same profession at the same professional level as the work for which the certificate of sponsorship was issued, ii) must be no more than 20 hours per week and iii) must be outside of the applicant's normal working hours for which his/her certificate of sponsorship was issued.

The applicant must continue to work for the sponsor in the employment that the certificate of sponsorship records that s/he is being sponsored to do.

Applicants do not need to advise UKBA of any supplementary employment they undertake, as long as it meets the above stated criteria.

Applicants can undertake voluntary work in any sector. Applicants must not be paid or receive other payment for their work (except reasonable expenses).

### **Secondary employment**

Applicants must make a secondary employment application if they wish to do any other additional work. This work must be with a licensed sponsor and the applicant will need a new certificate of sponsorship from that sponsor.

The applicant should apply for secondary employment after starting work with his/her first sponsor. The applicant will have to meet the points threshold and criteria relevant to the category.

The applicant must submit a fresh application, and must include a letter with his/her application explaining that s/he wishes to vary his/her existing leave and include the applicant's certificate of sponsorship reference number (from the application s/he wishes to vary) and confirmation of the date his/her current leave expires.

### **Change of employment applications**

Applicants must make a change of employment application if they wish to change employer. They must also make a change of employment application if they change jobs within the same employer where:

- there is a change to their core duties or responsibilities which means that they change jobs to a different Standard Occupational Classification (SOC) code
- they are remaining with the same sponsor but there is a change to their core duties which means they change jobs from a job which is currently on the shortage occupation list to a job which is not on the shortage occupation list; or
- their pay reduces from the level indicated on their current Certificate of Sponsorship or current work permit, other than changes due to company-wide reductions defined as acceptable in the Sponsor guidance, or reductions due to maternity or adoption leave.

A change of employment application is not required for other changes to the applicant's job, for example if they are remaining with the same employer and changing jobs to a different job within the same SOC code, or their pay increases.

A change of employment application is treated the same as an initial application. Applicants must have a new Certificate of Sponsorship and they must meet all the points requirements, which may include the sponsor carrying out a new resident labour market test.

Applicants cannot start work in their new job until their change of employment application has been approved. It is recommended that applicants do not commence employment until they have received their ICFN (Identity Card for Foreign Nationals) card; if they do so there is a risk of having no statutory excuse against a civil penalty if the ICFN card is incorrect or withdrawn by UKBA. Applicants can continue working for their previous sponsor until the start date on their new Certificate of Sponsorship, provided their previous leave has not expired.

They do not need to resubmit evidence of the points they are claiming (other than their new Certificate of Sponsorship) if they have already provided it in a previous Tier 2 application. If they have not provided this evidence previously, they must provide it with their new application or the application will be refused.

### **Temporary reduction in working hours**

Some employers are temporarily reducing workers' hours to avoid making redundancies. A change of employment application is **not** required if:

- the migrant currently have leave as a work permit holder or under Tier 2; and
- the migrant is continuing to work in the same job, with reduced working hours; and
- the reduced working hours are part of a company-wide policy to avoid redundancies; and
- the employer is not treating migrant workers more favourably than resident workers; and
- the migrant's pay or working hours do not reduce by more than 30%; and
- any reduction in wages is proportionate to the reduction in hours; and
- the arrangements will be in place for no more than one year.

### **Extension applications**

Migrants must make an extension application if they need to extend their leave and they are applying to continue in the same job for the same sponsor. Migrants cannot apply for an extension if they are applying from outside the UK, or switching from another category, or changing employment (see above).

Applicants must have a new Certificate of Sponsorship for their extension application. If they needed to claim points for their qualifications and/or prospective earnings in their previous application, they will also need to claim points for these when applying for an extension.

Please note that the points available are subject to change. Applicants can only claim the points that are available at the time they apply for an extension. These may be different to the points that were available for their previous application.

Applicants can continue working while UKBA are considering their extension application, provided they submitted the application before their previous leave expired. Applicants do not need to resubmit evidence of the points they are claiming (other than their new Certificate of Sponsorship) if they have already provided this evidence in a previous Tier 2 application. If they have not provided this evidence previously, they must provide it with their extension application or the application will be refused.

A resident labour market test is not required for extension applications. Those applying in the UK under the Tier 2 categories whose total stay in the UK will exceed six months must apply for a Biometric Immigration Document – also known as an Identity Card for Foreign Nationals (ICFN).

As part of their application to extend their leave in the UK, applicants (together with any dependants) will be required to provide their biometric details. If the application for an extension of stay is successful the applicant will be issued with an Identity Card for Foreign Nationals.

More information about biometrics and ICFN can be found on the UKBA website or in the Tier 2 application forms.

[www.bia.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2applicationform.pdf](http://www.bia.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2applicationform.pdf)

[www.bia.homeoffice.gov.uk/managingborders/idcardsforforeignnationals/](http://www.bia.homeoffice.gov.uk/managingborders/idcardsforforeignnationals/)

### **Multiple periods of employment in the UK**

If an applicant is based overseas and is required to enter the UK on a regular basis s/he may be issued with a multiple entry certificate of sponsorship. This type of certificate is not required by a migrant wishing to travel overseas for leisure or domestic purposes or where the migrant is based in the UK and required to travel overseas on business.

Where an applicant has entry clearance or has been granted leave to remain for more than six months, s/he will not be required to obtain a new certificate of sponsorship in order to return to the UK for each period of employment. However, if an applicant who does not have entry clearance, or has been granted less than six months leave to remain, travels out of the UK then his/her leave to remain will lapse. In these circumstances the applicant will not be able to re-enter the UK with that leave and will need to apply for fresh leave after the sponsor has assigned a new certificate of sponsorship.

### **Absences from the UK**

The UK, Channel Islands, Isle of Man and Republic of Ireland form a common travel area. If applicants leave this area while they are employed in the UK (e.g. for holidays, business trips or a secondment overseas), they do not need to make a new application to return to the UK unless their leave expires or lapses.

If applicants have been granted entry clearance or leave to remain for more than six months, their leave will not lapse when they leave the common travel area, unless their leave passes its expiry date or they stay outside the UK for more than two years.

However, if an applicant does not have entry clearance or s/he has leave to remain which was granted for less than six months, his/her leave will lapse if s/he leaves the common travel area.

If leave lapses or expires while a migrant is overseas s/he will not be able to re-enter the UK unless s/he makes a new application with a new Certificate of Sponsorship from his/her sponsor.

### **Transitional arrangements**

Under the transitional arrangements, applicants do not need to provide the full evidence in order to score the necessary 70 points. If the application is successful, they will be granted leave to remain for the period of time they need to take their total stay in the UK to five years, or for a period of two years if this is longer. Applicants will not be granted leave for longer than the period given in their Certificate of Sponsorship plus 14 days.

Applicants can apply under the transitional arrangements if they:

- are currently in the United Kingdom
- have, or were last granted, leave as a work permit holder (excluding multiple entry) or Tier 2 (General) provided they were last granted leave under the transitional arrangements
- have not been granted leave in any combination of these categories for a total of five years or longer; and
- have a valid Certificate of Sponsorship; and
- are applying to continue working for the same employer doing the same job as their previous grant of leave was issued for.

Applications cannot be made under the transitional arrangements where there is a change of employer, or if the applicant wishes to continue working for the same employer and there is any change to his/her core duties or responsibilities, his/her position in the hierarchy, or if his/her pay changes from the level indicated on his/her current Certificate of Sponsorship or current work permit, other than changes due

to annual increments, bonuses or natural progression within the same job (provided this progression is at the same level and is not a promotion).

Applications cannot be made under the transitional arrangements if the applicant has already been granted five years leave via work permit/Tier 2 General. The application will be considered under the full Tier 2 criteria. If s/he is applying to continue working for the same employer doing the same job as his/her previous grant of leave was issued for, his/her application will be considered as an extension and a resident labour market test will not be required.

Attributes for Tier 2 (General) under the transitional arrangements

Applicants can claim 50 points for attributes, without needing to claim points for their qualifications and/or prospective earnings.

English language skills and maintenance (funds) under the transitional arrangements

Tier 2 applications made under the transitional arrangements will automatically be awarded 10 points for English language skills and 10 points for maintenance (funds) without needing to provide evidence for these.

If the applicant has been in the UK in any combination of eligible categories for five years or more they cannot apply under the transitional arrangements – they must apply under the full Tier 2 criteria.

**Further information**

Further information on PBS can be accessed via the UKBA website: [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk).

The full Tier 2 Policy Guidance document can be accessed and downloaded via:  
[www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2skilledworkers](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2skilledworkers)

Alternatively, please refer any queries to your HR team.