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Changes to Immigration Laws

On 29 February 2008 a new points system was introduced to ensure the high calibre of future employees from overseas in the UK. It is in part already in operation with the rest of the changes being phased in over the next 2 years. In addition, as a result of the Immigration, Asylum and Nationality Act 2006, new licenses have been introduced for businesses that employ migrant workers and there are large on the spot fines for those not complying with the legislation and hiring illegal workers.

Highly skilled migrant programme

The Highly Skilled Migrant Programme (HSMP) allows highly skilled individuals to come to the UK to look for work or self-employment opportunities. Unlike with work permits, HSMP holders are not tied to any one employer. For this reason employers usually prefer to support work permits. This programme will be withdrawn gradually in 2008 with individuals inside the UK or those applying from India now (since 1 April 2008) having to apply under the new points system. There are transitional rules available for individuals already in the UK applying for leave to remain.

The new points system is broken into five tiers, the first tier applying to highly skilled migrants. For completeness the tiers are:

- Tier 1 - for highly skilled migrants, entrepreneurs, investors, and graduate students (replacing HSMP, the Entrepreneur and Investor schemes, and the International Graduate Scheme).
- Tier 2 - for skilled workers who have a job offer (replacing existing UK work permit rules).
- Tier 3 - for a limited number of lower skilled workers to fill temporary shortages in the labour market.
- Tier 4 - for students.
- Tier 5 - for youth, mobility and temporary workers.



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It will be possible to switch to another tier once you are in the UK under tiers 1, 2 and 4 if you become eligible to meet the requirements of that tier.

In respect of tier 1, points will be awarded for criteria such as age, previous salary or prospective salary, experience and qualifications. Individuals will need a minimum of 75 points in respect of attributes and 10 points for English language and 10 points for available maintenance.

1. Young Person Assessment - maximum 20 points

Points are awarded if an individual is under 32 years of age as follows:

Age 27 or under	20 points
Age 28 or 29	10 points
Age 30 or 31	5 points
Age 32 and over	0 points

2. Educational qualifications - maximum 50 points (except MBA)

Points are awarded as follows:

Bachelors degree	30 points
Masters degree	35 points
Doctoral degree	50 points (maximum)
Vocational or Professional qualifications	Based on equivalency to above qualifications

An MBA is not a separate category under the points based system but it may be used to score points as a Master's qualification.

3. Past earnings - maximum 45 points

Points are gained depending on income levels in any period of 12 months in the last 15 months or if the individual is a student, in the 15 months before they became a student. Qualifying income levels differ depending on the country of employment. In respect of Japan the points are:

£16,000 per annum	5 points
£18,000 per annum	10 points
£20,000 per annum	15 points
£23,000 per annum	20 points
£26,000 per annum	25 points
£29,000 per annum	30 points
£32,000 per annum	35 points



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£35,000 per annum	40 points
£40,000 per annum	45 points

4. UK experience - maximum 5 points

If an individual earns points under the past earnings category and those earnings were in the UK or the individual has studied and graduated at a Bachelor's degree or higher in full time education in the UK or at a UK based overseas educational institution for at least one academic year, an additional 5 points are earned.

5. English language ability

An individual must have a minimum level of English language and score 10 points. 10 points are awarded if the individual is a national of certain majority English language speaking countries; or they pass an English test on the list of approved English language tests which include IELTS and TOEIC; or they hold a degree that was taught in English and is equivalent to a United Kingdom bachelor's degree or above; or they were granted permission to stay under a Tier 1 category and are applying for an extension; or they were granted permission to stay as a highly skilled migrant under the immigration rules which came into force on 5 December 2006 and are applying for a extension under a Tier 1 category. For example the levels/grades required under IELTS are 6.5 and under TOEIC are Listening, 455; Reading 420; Speaking 180; Writing 180.

6. Available Maintenance

10 points are awarded if you are applying to a British Overseas entry clearance post for permission to come to the United Kingdom and have £2,800 in available funds; or you are applying for permission to stay in the United Kingdom and have £800 in available funds.

Work Permit rules

These rules which relate to highly skilled individuals will be replaced by Tier 2 of the new points system during 2008 or 2009. For the time being there are new forms for application. Work permits are specific to an employer and for an application to be successful the position must satisfy the following criteria:



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- The position must be at a skill level that only a person who has attained a degree level qualification or 3 years relevant employment experience, will be able to perform the requirements of the position.
- The salary being offered must be commensurate with the salary a resident worker would expect to be paid for the same position.
- There must not be a resident worker available to fill the vacancy. To ensure compliance with this criterion, the position must be advertised in a national publication, a relevant trade journal or on a national jobseekers website. (This is not necessary for intra-company transfers.)

Once a work permit is issued the candidate will have to apply for Entry Clearance at their nearest British Diplomatic Post in their country of residence. The individual must satisfy the Entry Clearance Officer that they are suitably qualified to take on the position and they are able to accommodate and support themselves as well as any accompanying family members. Generally in addition to providing their passport, photos work permit, employment contract and fee they will need to provide evidence as to their qualifications, their ability to speak English, funds available to them, accommodation on arrival in the UK and immigration status in the country they are applying. New English tests are being introduced to deal with the requirement for knowledge of the English language.

Sponsorship licenses

Under the Points based system most economic migrants to the UK from outside of the UK will need to be sponsored in order to come to the UK. This will apply to all individuals entering the UK under tiers 2 to 5. Tier 1 migrants will not require sponsorship.

Sponsorship will be provided by employers and educational establishments. Employers and educational establishments will need to apply for a license to be able to sponsor migrants. Before issuing a license the Border and Immigration Agency (BIA) will consider the employer's or establishment's history and that of its managers or others in control. There will be A and B ratings. B ratings will apply where practices need to be improved to meet their obligations. If they do not improve to A rating over a period of time, they may lose their license completely. A license will enable employers to



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apply for certificates of sponsorship which can be allocated to migrants it wants to employ or offer a position of study.

In order to meet their obligations, in addition to paying a license fee, the sponsors will be required to keep specified records and to report to the BIA if a migrant fails to turn up for work or studies. The sponsor must report any significant changes in the migrants work or studies, and any suspicions that the migrant is breaching immigration conditions.

Hiring illegal workers

The financial penalties for employers who negligently employ an individual illegally have been increased from 29 February 2008 to £10,000. It is also a criminal offence to knowingly employ illegal migrant labour, carrying a possible prison sentence of up to 2 years and/or an unlimited fine. To comply with the law employers must take the following steps:

- See certain specified documents as set out on prescribed lists. List A details documents that will serve for the full term of employment. List B items indicate limited leave to be in the UK. These include passports, national ID cards, work permits, a biometric immigration document issued by the BIA, a UK birth certificate or adoption certificate etc.
- Check that the documents are genuine and that they refer to the individual concerned. You may contact the Employer Checking Service for information on documents issued by the BIA;
- Retain a copy of the documents;
- Repeat the document checks at least once a year for individuals who have limited leave to enter or remain in the UK.



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April 2008 has also seen the introduction of a new UK Border agency intended to ensure that the UK has one of the toughest borders in the world. These changes aim to ensure that only individuals with skills the country needs can enter the UK and illegal working is eliminated so that all businesses are on an equal footing.