



## **Guidelines for Appointing Overseas Workers**

**This information is intended to give an outline, please contact the HR Manager or HR Administrator for your Division to discuss particular cases in more detail.**

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### **IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006**

Under Section 21 of the Immigration, Asylum and Nationality Act 2006 it is a criminal offence for an employer to knowingly employ someone who does not have

permission to be in, or to work in, the United Kingdom. An employer who employs an illegal migrant is liable to pay a fine of up to £10,000 per illegal worker<sup>1</sup>.

In order for St George's, University of London to meet its legal responsibilities to prevent illegal migrants working in the UK, SGUL is required to carry out document checks on every person we intend to employ to ensure that we only employ people who are legally entitled to work in the UK. The Act also includes employer responsibilities for tracking and monitoring the immigration status of migrant workers once employed and reporting unauthorised absence.

Prior to commencing employment successful candidates are required to produce original official documentation confirming their legal right to work in the UK.

The documents which show a person's entitlement to work are split into two lists (List A and List B) below. If an employee presents a document from List B, St George's must carry out follow-up checks every 12 months to confirm the individual's 'right to work' status. This legislation applies to all employment. To avoid discrimination under the Race Relations Act 1976 it is essential that all new employees are asked to provide this documentation.

All applicants are asked to confirm their immigration status on application forms and if shortlisted they are required to provide the HR Department with evidence.

## **HUMAN RESOURCES DEPARTMENT ADVICE AND SUPPORT**

Please contact the HR Administrator or HR Manager for your Division (<https://portal.sgul.ac.uk/org/cs/hr/contact-us>) if you have any queries regarding employing overseas nationals and the immigration system.

Advice and information on all aspects of the immigration system and legal entitlement to work in the UK is available on the UK Border Agency website: <http://www.ukba.homeoffice.gov.uk/> and via the UKBA employers' helpline: **0300 123 4699**.

## **COUNTRY REQUIREMENTS**

The following groups are not subject to immigration control and nationals of the countries listed therefore have no restrictions on working in the UK:

- **Nationals of the European Economic Area (EEA) countries**, except Bulgaria and Romania (see below). Member countries are: Austria, Belgium, Cyprus, Czech Republic\*, Denmark, Estonia\*, Finland, France, Germany, Greece, Hungary\*, Iceland, Ireland, Italy, Latvia\*, Liechtenstein, Lithuania\*, Luxembourg, Malta, Netherlands, Norway, Poland\*, Portugal, Slovakia\*, Slovenia\*, Spain, Sweden, United Kingdom.
- **\*Nationals from these EU member states ('Accession State workers')** are free to work in the UK but must register with the UK Border Agency under the Government's Worker Registration Scheme within their first month of starting employment. Under the Accession (Immigration and Worker Registration) Regulations 2004, employers can be fined a maximum of £5,000 per illegal

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<sup>1</sup> If an illegal worker is knowingly employed the offence will carry the potential of an unlimited fine and/or prison sentence of up to two years.

worker if they continue to employ an unregistered non-exempt Accession State worker after one month and have not retained a copy of their Home Office application form and do not receive a certificate of registration. An employer can also be fined for continuing to employ an Accession State worker if they have been notified by the Home Office that their application has been refused. Under the Accession (Immigration and Worker Authorisation) Regulations 2006, an employer can be fined a maximum of £5,000 per illegal worker for employing a non-exempt Bulgarian or Romanian who does not have permission to undertake the employment in question from 1 January 2007.

- **Citizens of Switzerland**
- **Commonwealth citizens** who are allowed to enter or to remain in the UK on the basis that a grandparent was born here.
- **Those who do not have any conditions attached to their stay in the UK. Spouses**, unmarried partners and dependant children under 18, of people who qualify under any of the above categories as long as the endorsement in their passport places no restriction on their employment here.
- **Asylum seekers** whose applications are successful and are granted Indefinite Leave to Remain (ILTR) are entitled to work in the UK without any restrictions. Asylum seekers are not normally allowed to work in the UK whilst their asylum application is being considered, except in very limited circumstances (see <http://www.ukba.homeoffice.gov.uk/asylum/support/employment/>).
- **British Overseas citizens, British Overseas Territories citizens, British Nationals (Overseas), British Protected Persons and British Subjects** are all forms of British nationality which require permission to live and work in the UK. There may be an entitlement to register as British citizens in certain circumstances.
- **Overseas students** studying at UK institutions are entitled to work in the UK, with certain restrictions. Students are not permitted to work more than 20 hours in any one week during term time.

If an individual either has no restrictions on their stay in the UK or is subject to immigration control as above, they should be able to produce the required documentation to demonstrate this.

## **POINTS BASED SYSTEM FOR MIGRANT WORKERS**

All other migrant workers are covered by the Points Based System (PBS) which is the new system for managing migration for those wishing to enter the UK for work or study.

Under the PBS migrants are required to accumulate points for factors such as:

- qualifications;
- future expected earnings;
- English language skills;
- available maintenance funds
- and Sponsorship (for Tier 2 and Tier 5 workers)

Full details of the PBS are available from the web link:  
<http://www.ukba.homeoffice.gov.uk/workingintheuk/>

The Points Based System includes 5 Tiers:

Tier 1 - highly skilled workers (replacing the highly skilled migrant programme and the International Graduate Scheme/Science and Engineering Graduate Scheme)

**Tier 2 - skilled workers with a job offer (replacing the previous work permits scheme)**

Tier 3 - low skilled workers filling specific temporary labour shortages, for example construction workers for a particular project; (currently suspended)

Tier 4 - students;

**Tier 5 - youth mobility and temporary workers including Sponsored Researchers**

In order to obtain prior entry clearance before entering the UK, a migrant worker will have to qualify through one of the above Tiers and be issued with a visa for Limited Leave to Remain (LLTR) and a biometric identity card.

A migrant who is already legally in the UK can potentially 'switch' from one immigration category to another. When the migrant does this, he/she must meet the initial entry requirements for the new category.

Spouses, unmarried partners and dependant children under the age of 18 of people who qualify for leave to remain under the Points Based System are also entitled to apply for leave to remain.

***Information on switching into Tier 2 is found at:***

<http://www.ukba.homeoffice.gov.uk/workingintheuk/tier2/general/eligibility/switching/>

**SPONSORSHIP STATUS AND THE CERTIFICATE OF SPONSORSHIP**

With the exception of Tier 1, in order to work in the UK a migrant is required to have a Certificate of Sponsorship (CoS) from a Sponsor employer licensed by the UK Border Agency.

St George's, University of London is an A-rated licensed sponsor for Tier 2, Tier 5 and Tier 4 (for overseas student admissions).

Failure to comply with the requirements under the PBS may result in SGUL's rating being downgraded to a B-rating or the Sponsor License being withdrawn.

Before a migrant can apply for entry clearance (a visa) under Tier 2 and Tier 5, SGUL will need to assign a Certificate of Sponsorship. The Certificate of Sponsorship acts as an assurance that the migrant concerned is able to undertake a particular job (or collaborative project under Tier 5). **The CoS is applied for on-line using the UK Border Agency's Sponsorship Management System (SMS). The SMS can be accessed via this link:**

**<http://www.bia.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/>**

The Certificate of Sponsorship (CoS) is a virtual document similar to a database record with a unique reference number and contains information about the job for which the CoS is being issued, as well as the migrant's personal details. SGUL may also need to provide the migrant with some of the information declared when the Certificate of Sponsorship was assigned, for example, the salary for the post. The migrant will need this information to accurately complete the **points-based calculator** and the relevant application form to apply for leave to enter or remain in the UK. The points based calculator is available at:  
<http://www.ukba.homeoffice.gov.uk/pointscalculator>

### **TIER 1 – GENERAL: Highly skilled workers and Post-study workers categories**

Non EEA nationals who are not residing in the UK could potentially gain permission to work in the UK under Tier 1. Non EEA nationals currently in the UK may also have permission to work in the UK under Tier 1. If this is the case then they will not need a job offer or a Certificate of Sponsorship from a prospective employer in order to take up employment. Therefore the HR Department will not need to demonstrate that SGUL has met the Resident Labour Market Test (RLMT) before confirming employment.

The Human Resources Department will always check the current immigration status of an appointed candidate including checking whether a candidate has obtained or could potentially qualify under Tier 1. Successful candidates should use the UKBA points calculator self assessment facility to check whether they would be eligible under Tier 1.

Tier 1 includes the categories **General highly skilled worker** and **Post-study worker**.

A migrant may also be able to switch to Tier 1 from a different immigration category.

For **Tier 1 (General highly skilled worker)** an application can be made where the migrant is:

- In the UK with 'leave to remain' in an immigration category that allows them to switch into the highly skilled worker category;
- Already in the UK as a highly skilled worker and wanting to extend their permission to stay within their existing category;
- Already in the UK under the Highly Skilled Migrant Programme (which has been replaced by Tier 1 - General), wanting to extend their permission to stay and eligible to switch into the highly skilled worker category;
- Applying for permission to enter the UK (known as 'entry clearance') under the highly skilled worker category.

For **Tier 1 (post-study worker)** an application can be made where the migrant is:

- In the UK with permission to stay under the Science and Engineering Graduates Scheme (SEGS), International Graduates Scheme (IGS) or Fresh Talent: Working in Scotland Scheme (FT:WISS);
- In the UK as a student, which includes student nurses, students resitting examinations and students writing up a thesis, and wants to switch into the post-study worker category.

A migrant who applies to the UKBA for leave to enter or remain (a visa) under Tier 1 will be awarded points based on their qualifications, previous earnings, UK experience, age, English language skills, and available maintenance funds.

If a migrant is granted a visa under Tier 1 by the UKBA, they will need to provide formal confirmation of this before they are formally offered employment.

**Migrants granted entry clearance in the post-study worker category from outside of the United Kingdom, will be able to live and work in the United Kingdom for a maximum period of two years. When the end of this period approaches they will not be able to extend their stay, as the UKBA expect migrants in this category to switch into another category of the points-based system. (Normally Tier 1 (General High Skilled) or Tier 2 (Skilled worker)).**

**In order to switch into Tier 2 from the post-study category of Tier 1,** candidates must have worked for their Sponsoring organisation for at least six months before they apply and must continue to work for that Sponsoring organisation.

If they have not worked for their Sponsor for at least six months before they apply, the Sponsoring organisations will have to meet the resident labour market test (RLMT). Candidates will not be able to claim points for switching from a post-study category, but can claim points if the RLMT is met.

**[For a summary of the UKBA process for Tier 1 for overseas applications click here.](#)**

**[For a summary of the UKBA process for Tier 1 applications for migrants already in the UK click here.](#)**

### **Switching into Tier 1**

A list of categories from which migrants already in the UK can switch into Tier 1 General - Highly Skilled Worker can be found at:

<http://www.ukba.homeoffice.gov.uk/workingintheuk/tier1/general/applying/initialapplications/#header1>

Under Tier 1, Migrants are granted 3 years leave to remain for initial applications and this can be extended for a maximum of 2 further years.

### **TIER 2 (GENERAL)**

#### **Tier 2 – Stage 1: The Resident Labour Market Test (RLMT)**

#### **Advertising jobs**

In order to comply with the Resident Labour Market Test for advertising vacancies SGUL advertise all vacancies on jobs.ac.uk and the Jobcentre Plus web sites and in compliance with the relevant UKBA sector codes of practice. Posts must be advertised for a minimum of **four** weeks.

The four weeks minimum advertising period does not need to be continuous. There are two options:

**a)** If it is determined that a post could be filled by an EEA national, then the post can be advertised for 2 weeks. However if the vacancy is not filled from the applicants that have applied, the advertising period can be extended for a further 2 weeks to allow for migrant workers to be considered.

**b)** If managers would like migrant workers to be considered from the outset (which is normally the case for most academic and related posts grade 5 and above), then the post would have to be advertised for a minimum of 4 weeks.

Job details in the further particulars and on the SGUL, jobs.ac.uk and Jobcentre Plus websites confirm that any offer of employment will be subject to providing satisfactory documentary proof of entitlement to work in the UK.

Jobs must be advertised in accordance with the methods permitted by the code of practice for the sector or job.

Each advertisement must include:

- the job title;
- the main duties and responsibilities of the job (the job description);
- the location of the job;
- an indication of the salary package or salary range or terms on offer;
- the skills, qualifications and experience needed; and
- the closing date for applications,

### **The recruitment and selection process**

All applicants, both on and off line, must complete the standard SGUL application form. The application form requires candidates to confirm their current status in terms of entitlement to work in the UK: a British citizen; an overseas national with entitlement to work in the UK; or an overseas national requiring permission to work in the UK.

The person specification for clinical vacancies also requires information on membership of professional bodies and state registration, to ensure entitlement to practice in the UK.

To comply with the selection requirements of the RLMT the following must be carried out:

- At short-listing stage, overseas nationals requiring permission to work in the UK, as confirmed on the application form, should be considered alongside the other applicants. (In most cases it will only be academic and research vacancies or those that require specialist skills and qualifications, for which SGUL would be able to obtain a Certificate of Sponsorship for a migrant worker.)
- Any migrant worker short-listed for the interview and further selection processes will then be subject to the same assessment process as all other short-listed candidates for the vacancy, in line with SGUL's Recruitment and Selection policy.

- The following documents from the recruitment process, must be retained on the successful applicant's HR file:
  - **All applications short-listed for final interview, in the medium they were received. For example, emails, • CV's, application form etc. This should include the applicants name, address, etc; and The names and number of applicants short-listed for final interview; and notes of the shortlisting decision.**
  - Notes from the final interviews conducted and for each EEA national who was rejected, reasons why they have not been employed.

Home Office Guidance on keeping documents can be found at:  
<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/pbsguidance/guidancefrom31mar09/sponsorguideappDfrom3103209.pdf>

## **Tier 2 - Stage 2: Obtaining a certificate of Sponsorship**

Where appropriate the HR Department will obtain a Tier 2 Certificate of Sponsorship (CoS) using the UKBA's on-line Sponsorship Management System (SMS).

The points based calculator is available at:  
<http://www.ukba.homeoffice.gov.uk/pointscalculator>

In practice SGUL will only be able to obtain a Certificate of Sponsorship for a migrant worker for academic and research jobs or jobs which require specialist skills and qualifications.

Prior to commencing the application for a CoS, the HR Department will check that the migrant is capable of gaining sufficient points on the points based assessment by checking copies or originals of the information they will rely on for claiming the number of points required.

The CoS, along with qualifications, ability to maintain themselves and any dependants prior to receiving a salary and English language competence, will determine whether the migrant achieves sufficient points to qualify under Tier 2.

The UKBA points calculator self assessment facility can be used to check whether a migrant would be likely to obtain sufficient points to be eligible under Tier 2:  
<http://www.ukba.homeoffice.gov.uk/pointscalculator>

The CoS must be issued no more than six months after the job was first advertised.

### **The Cost of a certificate of sponsorship**

The fees payable when assigning a certificate of sponsorship under tier 2 or 5 of the points-based system are:

<b>Tier</b>	<b>Cost of certificate of sponsorship</b>
Tier 2	£170
Tier 5	£10



The fee is payable even if the migrant does not use it.

### **Nationals that are exempt from the fee for a certificate of sponsorship:**

Sponsors issuing certificates of sponsorship (under tier 2 or tier 5 only) to nationals from the following countries do not have to pay a fee:

Albania; Andorra; Armenia; Azerbaijan; Croatia; Georgia; FYR Macedonia; Moldova; Turkey; Ukraine.

### **English Language Requirement**

Applicants must provide specified documents to show that they have a good knowledge of English. There are three ways in which an applicant can show he/she meets the English language requirement. The applicant can:

- be a national of a majority English speaking country; or
- pass an English language test; or
- hold a degree that was taught in English and is equivalent to a United Kingdom Bachelors degree or above.

A list of approved English Language tests can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/approvedenglishtestst2.pdf>

### **Maintenance**

As SGUL is an A-rated sponsor, at the time we assign a certificate of sponsorship under tier 2, we can confirm (certify) that we will maintain and accommodate the migrant until the end of their first month of employment in the United Kingdom, instead of the migrant having to show they have £800 available as required under the scheme.

We will need to send the migrant a letter on official letterheaded paper or stationery, and signed by a Human Resources Manager by post or fax, which must include:

- the migrant's name;
- the SGUL name and logo; and
- confirmation that SGUL will maintain and accommodate the migrant until the end of their first month of employment in the United Kingdom.

The amount that we can certify must be at least £800. We can also certify maintenance and accommodation for any of the migrant's dependants and the minimum is £533 per dependant.

The migrant will need the letter to send in with their Tier 2 visa application.

### **Job level**

In order to obtain a CoS under Tier 2 the following basic requirements must be met in line with the relevant UKBA sector codes of practice:

The job must be at skill level NVQ 3 (A level equivalent) or above; - (In practice SGUL will normally issue a CoS for academic and research jobs and jobs requiring a

degree or equivalent professional qualifications, senior executive or administrative skills or highly qualified, specialist rare technical skills).

- CoSs will not be issued for jobs at manual, clerical or secretarial levels
- The vacancy must pass the Resident Labour Market Test or (RLMT) or be covered by the UKBA's shortage occupation list; (*not applicable to jobs at SGUL.*)
- The migrant will be paid a salary and/or allowances at the appropriate rate.
- Evidence of advertising will need to be provided when obtaining the CoS in order to demonstrate that the RLMT has been met, except in the following circumstances:
  - the job is on the UKBA's shortage occupation list;
  - the migrant is switching from the Tier 1 post-study worker category; **and** has completed six months' continuous service with SGUL
  - the migrant has been employed in the UK by SGUL for a continuous period of at least 6 months;
  - the migrant has been working in the same job before they apply.

If a migrant is **a named researcher** on a research grant application, and the vacancy has therefore not been advertised, details of the grant application naming the individual will need to be provided to demonstrate that the RLMT is met.

In addition to the application form/CV of the migrant, copies of the migrant's qualifications (including professional qualifications and registration certification) relating to the job in question must also be provided. This is to ensure that the migrant is qualified for the job.

The migrant will need to quote the CoS number as part of the application process (see: <http://www.ukvisas.gov.uk/en/howtoapply/infs/inf26pbsskilledworker>) for seeking leave to enter or remain in the UK (a visa) from the UKBA, to help establish whether they have achieved sufficient points to qualify under Tier 2. As part of this process the UKBA will refer to the information provided by the HR Department when obtaining the CoS. **For a summary of the UKBA process for Tier 2 overseas applicants please click here.**

Migrant workers will initially be given a visa to run for a maximum of three years for working and living in the UK, which will have to be extended if they are required to stay for longer. After five years they will be entitled to apply to live in the UK permanently. If their contract is for less than three years then the visa will be linked to the length of contract.

A migrant who is employed under Tier 2 can apply for an extension of his/her permission to stay (this is known as further leave to remain) to continue working in the same role. In such cases, as with initial entry, a CoS needs to be applied for using the SMS before the migrant makes an application for an extension of stay. A further Resident Labour Market Test will not be required as part of the CoS application. **For a summary of the UKBA process for Tier 2 applicants switching into the category or applying to extend (and therefore already in the UK) please click here.**

## **IDENTITY CARD FOR FOREIGN NATIONALS**

From 6 January 2010, all sponsored skilled workers are required to obtain an identity card when applying to extend their stay in the UK under Tier 2 of the points-based system.

After submitting an application by post to extend their stay in the UK, migrants will be told whether they need to apply for an identity card as part of their immigration application. If they do, they will need to enrol their biometrics (fingerprints and photograph) with the UK Border Agency.

Applicants can enrol their biometrics at a range of biometric enrolment centres around the UK. They will need to book an appointment either by telephone or online.

Alternatively, postal applicants living within certain postcodes can enrol their biometrics at 17 Crown post offices nationwide. This is a walk-in service, with no need to book an appointment. Applicants will be informed that this service is available to them through their biometric enrolment notification letter.

If their application is successful, the migrant should receive their identity card no more than 10 working days after the date of the letter extending their permission to stay.

A summary document of the Identification Card for Foreign Nationals can be found here:

[http://www.ukba.homeoffice.gov.uk/sitecontent/documents/visitingtheuk/identity\\_cards\\_for\\_foreign\\_1](http://www.ukba.homeoffice.gov.uk/sitecontent/documents/visitingtheuk/identity_cards_for_foreign_1)

## **TRANSITIONAL ARRANGEMENTS**

Transitional arrangements for migrants who are currently working at SGUL under the previous work permit scheme (Business and Commercial including Sponsored Researchers) and require an extension have been put in place. In these cases the HR Department will obtain a CoS for the extension. A further Resident Labour Market Test will not be required as part of the CoS application. Such applicants will not have to meet the full points based system Tier 2 criteria (qualifications, prospective earnings, Resident Labour Market Test).

Applicants will also be awarded 10 points for both English language and maintenance requirements. If the migrant requires an extension of his/ her permission to stay in order to carry out a different job at SGUL, a full application under Tier 2 must be made including meeting the RLMT.

## **TIER 5 TEMPORARY WORKER - Government Authorised Exchange - Sponsored Researchers - Initial applications**

Sponsored Researchers apply to those who wish to visit SGUL for the purpose of research work funded from a source other than their own private funds. As they will not be filling a genuine vacancy and the work being carried out will be in addition to SGUL's normal staffing needs there is no requirement to meet the resident labour market test for these positions.

A Tier 5 Certificate of Sponsorship (CoS) will need to be obtained for a migrant Sponsored Researcher by the HR Department. The migrant will then need to apply for a limited leave to remain (a visa) to live and work in the UK.

As soon as the details of a proposed sponsored research visit are known, the following information should be sent to the HR Department:

- Full CV of the visitor
- Photocopies of the visitor's passport identification pages
- Details (copies) of the visitor's qualifications along with an explanation of how the qualifications have been verified
- A brief explanation as to why the collaboration with the visitor is important.
- Details of the duties that the visitor will be engaged in
- A summary of the skills and experience necessary for the work being undertaken and confirmation that the visitor possesses these skills.
- Confirmation of the maximum duration of the visit. (Extensions to visits will require a further CoS to be issued (£10) and an application for further limited leave to remain (£125)).
- Confirmation of whether they are on sabbatical from their employer and if so, how they will support themselves during their visit
- If they will be receiving payment during their visit:
  - From a non-SGUL source: the name, address and contact details of the sponsoring organization, the level of funding provided (in GBP) and evidence of the sponsorship
  - If from a SGUL source: details of the level of support (in GBP) and how much (if any) is accommodation allowance, the budget's account code and the source of the funds (e.g. Wellcome Trust, British Heart Foundation etc.). The HR Department will ask the Research Office/Finance Office to certify that funds are available for the duration of the visit from the nominated budget.
- The budget code of the account from which the £135 application fee (£10 CoS and £125 limited leave to remain) will be paid.

The CoS, along with available maintenance funds to meet all expenses for the duration of their visit (and have no recourse to public funds), will determine whether the migrant achieves sufficient points to qualify under Tier 5, through the government authorised exchange category.

In addition to the background information listed above the migrant will need to confirm their maintenance funds (which may consist of combined funding, e.g. from a sponsoring body plus a salary from the overseas institution).

Note that as an A-rated sponsor, at the time we assign a certificate of sponsorship under tier 5 – we can confirm (certify) that we will maintain and accommodate the migrant until the end of their first month of employment in the United Kingdom, instead of the migrant having to show that they have £800 available.

The migrant will need to quote the CoS number as part of the application process for seeking leave to enter or remain in the UK (a visa) from the UKBA, to help establish whether they have achieved sufficient points to qualify under Tier 5. As part of this process the UKBA will refer to the information provided by SGUL when obtaining the CoS. The UKBA points calculator self assessment facility can be used to check whether a migrant would be likely to obtain sufficient points to be eligible under Tier 5. **[For a summary of the UKBA application process for Tier 5 overseas applicants please click here.](#)**

Migrant sponsored researchers will initially be given a visa for a maximum period of 24 months, or the time given in the CoS plus one month, whichever is shorter; and are not permitted to switch into other employment once in the UK.

If a migrant needs to leave and come back to the United Kingdom quite a few times as part of their work they can get a multiple entry certificate of sponsorship. We will need to indicate this at the time we apply for a CoS.

If a migrant is given leave to remain in the United Kingdom for six months or less, they will not be able to come back once they leave the UK. They must apply to be able to come back.

### **Sponsored Researchers – extension applications**

An applicant in any Tier 5 (Temporary Worker) sub-category will be able to extend his/ her leave up to the maximum time of 24 months in that subcategory.

He/she will need to pass the test that is in force at the time he/she applies and this could be different to the test that was in place when the applicant first came to the United Kingdom. The exception is non visa nationals entering the United Kingdom under the Creative and Sporting sub-category for a period of less than three months, who have not obtained entry clearance. An applicant, in this situation, will not be able to extend his/her leave. For a **[summary of the UKBA process for Tier 5 migrants applying to extend their stay in the UK please click here.](#)**

### **OTHER ROUTES**

#### **Business Visitors (including Academic Visitors)**

- Managers/Divisions should seek advice from the Human Resources Department to ensure that prospective visitors gain the correct entry clearance prior to arranging their visit.
- A person entering the UK with a general tourist visa is not allowed to act as an Academic Visitor or Business Visitor and should not participate in any activities at SGUL whatsoever.
- If the prospective visitor is a Non-visa national (does not need to obtain entry clearance (a visa) prior to travelling to the UK) and is **seeking entry to the UK for six months or less** , they can travel to the UK and declare their intention at the port of entry. They may be granted leave to enter under the rules for Business Visitors for a maximum of six months. Although Non-visa nationals should not need to obtain a visa prior to travelling to the UK, as there is currently a lack of clarity surrounding the academic visitor route, in order to avoid possible problems at immigration on arrival, it is recommended that prospective visitors check with their nearest British Consulate/Visa application centre whether they need to obtain entry clearance prior to travelling to the UK well before their travel date.

- If the prospective visitor is a visa national or a non-visa national intending to stay in the UK for longer than six months, they will need to apply for entry clearance prior to travelling.
- To check whether a person needs to have entry clearance prospective visitors should visit the UK Border Agency Visas Services website at: <http://www.ukvisas.gov.uk/en/>

**Neither the Business Visitor or Academic Visitor categories allow migrants to carry out collaborative research. Migrants who wish to carry out collaborative research are required to enter the UK as a Sponsored Researcher under Tier 5.**

### **Academic Visitors**

This route allows well qualified academics to visit the UK for a maximum of 12 months to undertake certain academic activities. They should be able to produce evidence that they have been working as an academic in an institution of higher education overseas, or in the field of their academic expertise immediately prior to seeking entry or entry clearance for entry in this category. The purpose of the visit will be based on an interchange of knowledge and experience and not to take up a position of employment.

#### **Academic visitors must be either:**

- A person on sabbatical leave from an overseas academic institution who wishes to make use of their leave to carry out research here (to do research for a book for example); or
- Academics (including doctors) taking part in formal exchange arrangements with United Kingdom counterparts; or
- Eminent senior doctors coming to take part in research or teaching.

#### **Academic visitors must:**

- Not receive funding for their work from any United Kingdom source (*payments of expenses or honoraria to cover their needs whilst in the UK may be disregarded, as may payments on an exchange basis*)
- Not intend to take employment or engage in any work other than the academic activity for which they are being admitted
- Not be filling a normal post or a genuine vacancy
- Not stay in the UK for more than 12 months
- Intend to leave the UK at the end of their visit
- Be able to maintain themselves and any dependants without having recourse to public funds (or be adequately maintained and accommodated by relatives or friends)

An academic visitor is not permitted to switch into other employment once in the UK.

#### **The activities that an academic visitor can engage in include:**

- attending meetings, including interviews that have been arranged before coming to the UK or conferences.
- arranging deals or negotiating or signing trade agreements or contracts, undertaking fact finding missions;
- conducting site visits

- Speaking at a conference where this is not run as a commercial concern (organisers not making a profit) and the conference is a “one off”.

### **Those unlikely to qualify as Academic Visitors:**

**Recent graduates:** Graduates, who have recently gained their degrees, either in the United Kingdom or overseas, would not normally qualify as it is unlikely they would have reached the level of expertise within their field that is expected of someone seeking entry under this category.

**Postgraduate researchers** entering the United Kingdom to study for an accredited United Kingdom academic qualification (rather than for the purpose of academic research work that does not lead to a UK academic qualification) should enter as students if they meet the relevant requirements of the Immigration Rules. If they do not meet the student rules but they are a named researcher undertaking research for which a grant has been made to a university or research institution for instance then they will need to meet the requirements of Tier 2 of the Points Based System.

**Lecturers:** A person who wishes to come to the United Kingdom solely to undertake a series of lectures for which they will receive a fee will normally be required to seek entry under Tier 2 of the Points Based System. Academics may, however, be eligible to enter as a mainstream **Business Visitor** (see below) for a maximum of 6 months if they are coming to participate in a conference or seminar where it is a single event, and the event is not a commercial venture (organisers are not making a profit).

- Those who are on sabbatical leave from private research companies are not eligible for leave under the academic visitor provisions.

### **Inviting an Academic Visitor to SGUL**

Divisions should follow the steps below when inviting an Academic Visitor to SGUL.

*The SGUL employee making the invitation should liaise with the HR Administrator for their Division when making arrangements to invite an Academic Visitor. The HR Administrator will clarify the appropriate paperwork to be completed.*

1. A letter of invitation should be sent from the Division/SGUL to the individual including the following details:
  - The names of the host, host Division and Centre/Section
  - The nature/purpose of the visit
  - The duration of stay (not exceeding 12 months)
2. The prospective visitor should provide the letter of invitation to their visa application centre when making their application for visa/entry clearance if required. A list of visa application centres can be found at: <http://www.ukvisas.gov.uk/en/howtoapply/wheretosapply/>
3. The prospective visitor should present their visa/entry clearance and invitation letter to Immigration control on arrival in the UK.

### **Business visitors**

Some visitors may be able to enter the UK as a Business Visitor if they wish to visit the UK for up to six months.

For the purpose of the Immigration Rules a Business Visitor is someone who works abroad but who intends to visit the UK for short periods of time in order to transact business on their own or their employer's behalf. As well as meeting all the normal requirements for leave to enter as a visitor the immigration officer must be satisfied that the applicant:

- is based abroad and has no intention of transferring his/her base to the United Kingdom even temporarily.
- will not receive his salary from a UK source, although Business Visitors are *allowed to receive reasonable expenses to cover the cost of their travel accommodation and subsistence.*
- is not involved in selling goods or services direct to members of the public.

Those included as Business Visitors are:

Academic Visitors.

Doctors taking the Professional and Linguistic Assessment Board (PLAB).

Those seeking entry for Clinical Attachment/Dental Observation.

Business visitors are not allowed to switch into any category for which permission to come under the points- based system is needed.

### **Non EEA Students**

Students studying at UK institutions who are not nationals of an EEA country are allowed to take spare time and vacation work. Similarly, they are also able to do work placements which are part of sandwich course or to undertake internship placements without the need to obtain permission from the Home Office.

Students will have a student visa stamp in their passports confirming their status and under these arrangements students will not need to obtain permission before they can work provided:

- they do not work for more than 20 hours in any one week period during term time except where the placement is a necessary part of their studies with the agreement of the education institution;
- they do not engage in business, self employment or the provision of services as a professional sportsperson or entertainer;
- they do not pursue a career by filling a permanent full-time vacancy.

Although the immigration regulations allow non-EEA students to work for up to 20 hours per week during term time, managers should note that SGUL recommends that unless their studies are adversely affected, full time students studying at SGUL should not work for more than 12 hours per week during term time.

Non-EEA students are entitled to work after the end of their studies for a period of up to four months or to the end of their visa, whichever is earliest.

### **SPONSORSHIP DUTIES**

- **Checking legal Right to Work in the UK**

All formal letters of appointment will confirm that the offer of employment is subject to providing satisfactory documentary proof of entitlement to work in the UK in the job



they have been appointed to, in line with the Immigration, Asylum and Nationality Act 2006.

New starters will be required to present the required original documentation in person to the HR Department on commencing employment. For clinical (GMC) and nursing (NMC) appointments, professional registration details can also be checked using the relevant on-line register.

*On-line registers:*

General Medical Council (GMC): <http://www.gmc-uk.org/register/>

Nursing and Midwifery Council (NMC):

<http://www.nmcuk.org/aNewSearchRegister.aspx>

The list of original documentation that new employees are required to present on starting can be found at Appendix A.

The following records and documents must be kept and presented to UKBA officials if asked:

- a photocopy or electronic copy of each sponsored migrant's passport or United Kingdom immigration status document (and in time, their ID card), showing evidence of their entitlement to work including the time of their permission to stay in the United Kingdom.
- each sponsored migrant's contact details (address, telephone number, mobile telephone number), which must be kept up-to-date;
- other documents about sponsored migrants that the UKBA think are relevant. For example, evidence to demonstrate that the resident labour market test is met correctly.
- a copy of the migrant's ID card if they have been issued with one.

- **Migrant tracking and monitoring**

Sponsors are expected to take responsibility for making sure that migrants comply with their immigration conditions by keeping records on each migrant, and reporting any changes to the UK BA, such as if they do not turn up for work. If SGUL does not comply with these duties, our license could be downgraded to a B-rating or withdrawn. The Sponsorship duties are listed on the UKBA website at: <http://www.ukba.homeoffice.gov.uk/employers/points/sponsoringmigrants/sponsorshipduties/>

It is vital that the following circumstances are reported to the HR Department immediately so that the UK Border Agency can be informed:

- if a migrant worker fails to turn up for their first day at work this must be reported to the UKBA within 10 working days with the reason the migrant gives for non-attendance e.g. a missed flight;
- if they are absent from work for more than 10 working days, without permission (unauthorised leave) this must be reported to the UKBA within 10 working days of the tenth day of absence;
- if their employment ends (including where they resign or are dismissed), this must be reported within 10 working days of the event in question with the

name and address of any new employer or institution that they have joined where applicable.

- if SGUL stops sponsoring them for any other reason, for example, if they move into another immigration category, like Tier 1 of the points-based system, that does not need a sponsor or the migrant's permission to stay ends, this must be reported within 10 working days;
- if there are any significant changes in the migrant's circumstances, for example, change of job or salary or the location the migrant is working at, this must be reported within 10 working days;
- if there is information which suggests that they are breaching the conditions of their leave, this must be reported within 10 working days;

**If an employee has a change in their contact details, they are able to update their details using the *YOURSELF* facility via the SGUL portal.**

The HR Department will report changes to the UK Border Agency using the Sponsorship Management System:

**<http://www.bia.homeoffice.gov.uk/employers/points/sponsoringmigrants/sms/>**

In line with the requirements of the 2006 Act, the HR Department will also carry out an annual check to ensure staff with Limited Leave to Remain are still entitled to work in the UK.

**The above information is intended to give an outline, please contact the HR Manager or HR Administrator for your Division to discuss particular cases in more detail.**

**Jide Olaniyan  
January 2010**

## **Documents required for proof of Right to Work – Guidance for successful candidates.**

Sections 15 and 21 of the Immigration, Asylum and Nationality Act 2006 make it a criminal offence for St George's, University of London to employ an adult who is subject to immigration control unless:

- The person has current and valid permission to be in the United Kingdom and that permission does not prevent the person from taking the job; or
- The person comes into a category where such employment is otherwise allowed.

In order for St George's, University of London to meet its obligations, prospective employees are required to produce one or more of the following original documents to the Human Resources Department before they commence employment:

**One** of the original documents alone, or **two** of the original documents in the **specified combinations given in List A**

**OR**

**One** of the original documents alone, or **two** of the original documents in the **specified combinations given in List B**

### **List A**

1. A passport showing that they are a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. A passport or national identity card showing that they are a national of the European Economic Area (EEA) or Switzerland.
3. A residence permit, registration certificate or document issued to a national of a EEA country or Switzerland certifying or indicating permanent residence issued by the Home Office or the Border and Immigration Agency.
4. A permanent residence card issued by the Home Office or the Border and Immigration Agency showing that they have a current right of residence in the UK as a family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Immigration Document issued to them by the Border and Immigration Agency which indicates that they are allowed to stay indefinitely in the United Kingdom, or have no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that they are exempt from immigration control, are allowed to stay indefinitely in the United Kingdom, have the right of abode in the United Kingdom, or have no time limit on their stay in the United Kingdom.

**If they are not able to produce one document from 1 to 6 above list then they must produce one document from 7 to 13 below along with an official document showing their name and National Insurance Number (e.g. P45, P60, NI Number Card, official letter from a UK government agency or previous employer):**

7. An Immigration Status Document issued to them by the Home Office or the Border and Immigration Agency with an endorsement indicating that they are allowed to stay indefinitely in the United Kingdom or have no time limit on their stay in the United Kingdom.
8. A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of their parents.
9. A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of their adoptive parents.
10. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland.
11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland.

12. A certificate of registration or naturalisation as a British citizen.
13. A letter issued to them by the Home Office or the Border and Immigration Agency which indicates that they are allowed to stay indefinitely in the United Kingdom.

**List B**

1. A passport or travel document endorsed to show that they are allowed to stay in the United Kingdom and are allowed to do the type of work in question, provided that it does not require the issue of a work permit.
2. A Biometric Immigration Document issued to them by the Border and Immigration Agency which indicates that they can stay in the United Kingdom and are allowed to do the work in question.
3. A work permit or other approval to take employment issued to them by the Home Office or the Border and Immigration Agency **when produced in combination with** either a passport or another travel document endorsed to show that they are allowed to stay in the United Kingdom and are allowed to do the work in question, or a letter issued to them by the Home Office or the Border and Immigration Agency confirming the same.
4. A certificate of application issued to them by the Home Office or the Border and Immigration Agency as a family member of a national of a European Economic Area country or Switzerland stating that you are permitted to take employment which is less than 6 months old **when produced in combination with** evidence of verification by the Border and Immigration Agency Employer Checking Service.
5. A residence card or document issued to them by the Home Office or the Border and Immigration Agency as a family member of a national of a European Economic Area country or Switzerland.
6. An Application Registration Card issued to them by the Home Office or the Border and Immigration Agency stating that they are permitted to take employment, **when produced in combination with** evidence of verification by the Border and Immigration Agency Employer Checking Service.
7. An Immigration Status Document issued to them by the Home Office or the Border and Immigration Agency with an endorsement indicating that they can stay in the United Kingdom, and are allowed to do the type of work in question, **when produced in combination with** an official document giving their permanent National Insurance Number and name issued by a Government agency or a previous employer.
8. A letter issued to them by the Home Office or the Border and Immigration Agency to the holder or the employer or prospective employer, which indicates that they can stay in the United Kingdom and are allowed to do the work in question **when produced in combination with** an official document giving your permanent National Insurance Number and your name issued by a Government agency or a previous employer.

If the appointed candidate requires Home Office permission to take up the post, St George's will take the necessary steps to secure a work permit from the Home Office.

When the individual has produced documentation to the satisfaction of the Human Resources Department, the original document(s) will normally be copied and retained on their files while their employment continues.

**Prospective employees will not be allowed to commence employment until this is done and failure to produce valid listed documents will result in any offer of employment being withdrawn.**

### **Summary of process for Tier 1 for overseas applicants:**

1. Migrant accesses the Self Assessment Points calculator to check that they have sufficient points and to see what documentary evidence is required for an application.
2. If they decide to make an application, they must complete form VAF9 (personal details form) and Appendix 1 with the points scoring information.
3. The application must be made through a visa application centre and there is a fee of £675 payable in local currency.

Note: Applicants must be able to demonstrate that they have funds to support themselves and any dependants. For the main applicant this is £2,800 with a further £1,600 needed for each dependant accompanying them or planning to join them within 12 months the main applicant's arrival in the UK. These amounts must be held in the migrant's personal bank account for a minimum period of 3 months immediately preceding and dated no more than 1 month prior to the date they submit the application.

INF 21 provides further details about the application process:

<http://www.ukvisas.gov.uk/en/howtoapply/infos/inf21pbsgeneralmigrant>

Form VAF9 can be found at:

<http://www.ukvisas.gov.uk/resources/en/docs/1903073/vaf9>

Appendix 1 can be found at:

<http://www.ukvisas.gov.uk/resources/en/docs/1903073/pbsappendix1>

Self assessment points calculator:

<http://www.ukba.homeoffice.gov.uk/pointscalculator>

### **Summary of process for Tier 1 application for migrants already in the UK:**

1. Migrant accesses the Self Assessment Points calculator to check that they have sufficient points and to see what documentary evidence is required for an application
2. Migrant completes form Tier 1 General:  
<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier-1-general-form.pdf> There is a standard fee of £820. This form is also for extensions under Tier 1.

Guidance for completing the forms can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier1generalguidance310309.pdf>

### **Summary of process for Tier 2 overseas applicants:**

1. SGUL issues a Certificate of Sponsorship – cost £170 (paid by SGUL)
2. Migrant accesses the Self Assessment Points calculator to check that they have sufficient points to make a successful application and to see what documentary evidence is required for an application.
3. If they decide to make an application, they must complete form VAF9 (personal details form) and Appendix 5 with the points scoring information.
4. The application must be made through a visa application centre and there is a fee of £265 payable in local currency (paid by the prospective employee).

INF 26 provides further details about the application process:

<http://www.ukvisas.gov.uk/en/howtoapply/infos/inf26pbsskilledworker>

Form VAF9 can be found at:

<http://www.ukvisas.gov.uk/resources/en/docs/1903073/vaf9>

Appendix 1 can be found at:

<http://www.ukvisas.gov.uk/resources/en/docs/1903073/PBSAppendix5SkilledWorker>

Self assessment points calculator:

<http://www.ukba.homeoffice.gov.uk/pointscalculator>

**Summary of process for Tier 2 applicants switching into the category or applying to extend (and therefore already in the UK):**

1. SGUL issues a Certificate of Sponsorship – cost £170 (paid by SGUL)
2. Migrant accesses the Self Assessment Points calculator to check that they have sufficient points to make a successful application and to see what documentary evidence is required for an application.
3. Migrant makes an application using application form Tier 2 (General/ICT).
4. The cost of the application is £465 (paid by SGUL).

The application form for Tier 2 (General/ICT) can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier-2-general-and-ict-form.pdf>

Policy Guidance on Tier 2 can be found at:

<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2guidance.pdf>

**Summary of process for Tier 5 overseas applicants:**

1. SGUL issues a Certificate of Sponsorship – cost £10 (paid by SGUL)
2. Migrant accesses the Self Assessment Points calculator to check that they have sufficient points to make a successful application and to see what documentary evidence is required for an application.
3. If they decide to make an application, they must complete form VAF9 (personal details form) and Appendix 6 with the points scoring information.
4. The application must be made through a visa application centre and there is a fee of £125 payable in local currency (paid by the researcher).

INF27 provides more information about the application process:

<http://www.ukvisas.gov.uk/en/howtoapply/infos/inf27pbstempworker>

Form VAF9 can be found at:

<http://www.ukvisas.gov.uk/resources/en/docs/1903073/vaf9>

Appendix 6 can be found at:

<http://www.ukvisas.gov.uk/resources/en/docs/1903073/PBSAppendix6TempWorker>

Self assessment points calculator:

<http://www.ukba.homeoffice.gov.uk/pointscalculator>

**Summary of process for Tier 5 migrants applying to extend their stay in the UK.**

1. SGUL issues a Certificate of Sponsorship – cost £10 (paid by SGUL)
2. Migrant accesses the Self Assessment Points calculator to check that they have sufficient points to make a successful application and to see what documentary evidence is required for an application.
3. Migrant must complete form Tier 5 – Temporary Worker see below.
4. There is a fee of £125 for the application (paid by SGUL).

The form for (in-country) Tier 5 government exchange (can be found at:  
<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier-5-application-form.pdf>

Policy guidance for the scheme can be found at:  
<http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier5temporaryworkerguidance.pdf>

### **USEFUL LINKS**

UK Border Agency website for guidance and application forms for the schemes and programmes: [www.ukba.homeoffice.gov.uk/](http://www.ukba.homeoffice.gov.uk/)

UK Visas website for information about applying for visas from overseas:  
[www.ukvisas.gov.uk](http://www.ukvisas.gov.uk)