



## DO YOUR POINTS ADD UP TO A UK VISA?

### Guidance - Points Based System: Tier 1 (Entrepreneur)(INF...) (../06/08)

This guidance explains what you need to do if you want to come to the United Kingdom (UK) to set up or take over a business, being actively involved with its running, under Tier 1 (Entrepreneur) of the Points Based System. It is only a guide but it aims to answer some common questions. More comprehensive guidance is available on the UK Border Agency website: <http://www.ukba.homeoffice.gov.uk>. There are also notes to help you to complete an application form.

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#### What is the Points Based System?

The Points Based System (PBS) is a new system for managing migration for those wishing to enter the UK for work or study.

#### When is it due to start?

Tier 1 (General) Migrant of the Points Based System was launched in the UK on 29 February 2008 replacing the Highly Skilled Migrant Programme (HSMP). From **30 June 2008** applicants both in the United Kingdom and overseas can submit applications for all categories of Tier 1. These are Tier 1 (General) Migrant, Tier 1 (Investor), Tier 1 (Entrepreneur) and Tier 1 (Post-Study Work). Other tiers will be phased in throughout 2008 and 2009.

#### How do I apply?

First access the Self-Assessment Points Calculator on <http://www.ukba.homeoffice.gov.uk/pointscalculator> in order to see whether you have enough points to make a successful application. The tool will enable you to understand how you can score points and what documentary evidence you require. If you decide to make an application, you should complete application form VAF9 with your personal details. Depending on which country you are making your application from, you may be able to complete this on-line. You will also need to complete Appendix 3 using the points scoring information obtained from the Self-Assessment Points Calculator. Check <http://www.ukvisas.gov.uk/en/howtoapply/biometricvisa/> to see if you need to apply through a Visa Application Centre (VAC) or the British Mission in your country.

#### What do I need to make my application?

- your passport or travel document;
- the application forms VAF9 and Appendix 3 with all mandatory sections completed;
- the fee, which cannot be refunded and you must pay in local currency;

- your biometric details (see below);
- a recent passport sized photograph  
(please note - photographs should measure 45mm x 35mm and be:
  - in colour taken against a white background;
  - clear and of good quality and not framed or backed;
  - printed on normal photographic paper;
  - full face and without sunglasses, hat or head covering (unless it is worn for cultural or religious reasons but the face must not be covered)
 (If the application is successful, the photographs provided will be reproduced on the visa vignette).
- all documents as specified in the Tier 1 (Entrepreneur) Policy Guidance as stated in the Immigration Rules. If you do not submit relevant documents, your application is likely to be refused as we will be unable to award the relevant points.

### What are my biometric details?

Biometric details are scans of all 10 fingers and a full-face digital photograph. You will need to provide your biometric details in person. The whole procedure should take no more than 5 minutes to complete. Your visa application will not be processed until you have met this requirement. For more information about biometrics please refer to <http://www.ukvisas.gov.uk/en/howtoapply/biometricvisa/>

### What are Visa Application Centres (VACs)?

In some countries we are working with commercial companies to run Visa Application Centres. The VACs are in largely populated areas making it easier and more convenient for people to apply for a UK visa. Trained staff at each VAC deals with all visa enquiries and applications. They collect your biometric information along with the relevant fees and provide unbiased advice on the application process, including whether or not you have included all the necessary documents. Entry clearance staff at the British mission will then consider your application and decide whether to issue or refuse your visa. VAC staff will have no say in this decision.

### How are the points calculated?

Points are awarded for what are called "Attributes", for which you need to score 75 points. These are awarded as follows:

- You have access to not less than £200,000 [25 points available];
- The money is held in one or more regulated financial institutions [25 points available];
- The money is disposable in the United Kingdom [25 points available].

Separate points are given for English language ability (10 points) and the availability of funds for maintenance (10 points). You must demonstrate that you have the level of English prescribed in the Immigration Rules and produce evidence of the required funds **in addition** to reaching the pass mark for the Attributes. Entry Clearance Officers will only award points for the sections for which you have indicated that you wish to claim and for which you have supplied the required supporting evidence.

### Claiming Points

#### Attributes

- **Access to not less than £200,000 [25 points available]**

If you have not less than £200,000 of your own money available to make a fresh investment into business in the United Kingdom you need to supply documentary evidence as specified below. You may include funds made available by one or more other people (known as a third party or parties). In these circumstances you must also provide a declaration from every contributor that the funds are available to you, together with confirmation from a legal representative that the declaration document is valid.

- **Funds held in one or more regulated financial institutions [25 points available]**

The financial institution or institutions that provide confirmation of the funds available to you must be regulated by the home regulator. The home regulator is an official financial regulatory body in the country where the financial institution operates and the transaction was made. This body must be appropriate to the type of financial transaction.

- **Funds disposable in the United Kingdom [25 points available]**

Funds held in the United Kingdom must be held in an institution that is regulated by the Financial Services Authority (FSA). If the funds are not held in the United Kingdom, all of the £200,000 must be freely transferable to the United Kingdom and convertible into pounds sterling. If the funds are held overseas but in an institution that has a presence in the United Kingdom and is regulated by the FSA, then the institution already does business in the United Kingdom and we will not need any further evidence of the availability of the funds for transfer to the United Kingdom.

If you rely on funds that are held in an overseas institution that is not regulated by the FSA you must provide confirmation that the funds can be transferred into the United Kingdom. Do this by supplying a document from your bank or financial institution confirming the amount of funds.

## Controls

### • English language ability [10 points available]

The ability to meet the required English standard is a mandatory requirement. If you cannot meet this level, your application will be refused regardless of any points you may have scored in the Attributes section. 10 points are awarded in this section if you meet the required standard and 0 if you do not.

There are three ways in which you can meet this requirement. You can:

- be a national of a majority English speaking country on the following list - Antigua and Barbuda, Australia, The Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Christopher (Kitts) and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, the United States of America or
- hold an English language qualification equivalent to the Council of Europe's Common European Framework for Language Learning level C1 (approximately IELTS level 6.5, GCSE Grade C) or
- hold a degree that was taught in English as confirmed by the UK NARIC database as equivalent to a UK Bachelors degree.

### • Maintenance (Funds) [10 points available]

Even if you have attained the pass mark of 75 in the Attributes section and have the required standard of English, your application will be refused if you do not pass the Maintenance (Funds) requirement. As a general rule you must be able to support yourself for the entire duration of your stay in the UK without needing any help from public funds. Initially, in order to qualify under Tier 1 (Entrepreneur) you must be able to demonstrate that you have £2,800 for yourself and (where applicable) £1,600 for each dependant accompanying you **AND** that you have held these amounts for a minimum period of 3 months immediately preceding the application.

## What supporting documents should I include with my application?

You should include originals of all documents specified **AND** also a copy of each document.

## Attributes

You must provide one or more of the following documents:

### • A letter from each financial institution holding your funds to confirm the amount of funds available

If funds are held in several financial institutions you must supply a letter from each institution. If funds are not held in the United Kingdom we will use the OANDA database (<http://www.oanda.com>) to convert the given amount into pounds sterling, using the exchange rate applicable on the date of the application.

Each letter must:

- be an original document;
- be on the institution's official headed paper;
- have been issued by an authorised official of that institution; and
- have been produced within the three months immediately before the date of the application.

Each letter must also confirm each of the following details:

- that the institution is regulated by the appropriate body;
- your name;
- the date of the document;
- the amount investment from your own funds that are held in that institution;
- the amount of investment available to you from any third party (if applicable) held in that institution;
- the name of each third party and their contact details. These must include their full address, including post code, landline telephone number and any email address;
- that if the funds are already in the United Kingdom that they have been in the United Kingdom for less than 12 months before the date of the application;

- that if the funds are not in an institution regulated by the FSA, the funds can be transferred into the United Kingdom

The letter should be in English or accompanied by a certified translation from a professional translator.

- **Additional evidence for third party funding**

Third parties (other contributors of funds) may include family members as well as other investors. If you are relying on third party funding you must also supply each of the following documents:

- A declaration from every third party that they have made the funds available for you to invest in the United Kingdom. The declaration must be original and the format is:
  - a letter showing your name and that of the third party;
  - the date of the letter;
  - your signature and the signature of the third party;
  - the amount of money available to you from that third party in pounds sterling; and
  - their relationship to you.

and

- A letter from a legal representative confirming the validity of each third party declaration provided. This must confirm that the letter or letters of permission from the third party or parties is/are valid and that the signatures are actual signatures of the people stated. This can be a single letter covering all third party permissions or several letters from several legal representatives.

The confirmation letter must be original and come from a legal representative permitted to practise in the country where the third party or funds are.

The letter must clearly show the following:

- the name of the legal representative confirming the details;
- the registration or authority of the legal representative to practise legally in the country in which the permission or permissions was/were given;
- the date of the confirmation letter;
- your name and the name of the third party;
- that the letter from the third party is signed and valid;
- the number of the third party's identity document (for example a passport or national identity card) the place of issue and dates of issue and expiry.

## Controls

- **English language ability**

- **Documentary evidence if you are a national of a majority English-speaking country**

If you are a national of one of the countries below, your passport will normally be used to establish your nationality:

Antigua and Barbuda, Australia, Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, New Zealand, St Christopher (Kitts) and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, USA.

- **Documentary evidence for English language tests**

Only tests that have been assessed as meeting UK Border Agency requirements will be accepted as evidence that you meet the standard required. This is equivalent to the Council of Europe's Common European Framework for Language Learning report at level C1 or above (approximately equivalent to IELTS 6.5, GCSE Grade C). In order to meet the requirement you will need to produce an original test result certificate showing:

- your name;
- the qualification obtained;
- the date of the award.

You should consult Annex B of the main guidance to see which tests are acceptable on

<http://www.ukba.homeoffice.gov.uk/workingintheuk/pointsbasedsystem/applying/>.

Those with hearing difficulties or other disabilities are not exempt from the English language requirement

- **Documentary evidence for a degree taught in English**

For this section, the country in which you took your degree determines how you qualify.

If you took your degree in one of the countries listed below, we assume the degree has been taught in English. Therefore the documentary evidence you supplied for your qualification will satisfy the English language requirement.

Antigua and Barbuda, Australia, Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Ireland, Jamaica, New Zealand, St Christopher (Kitts) and Nevis, St Lucia, St Vincent and the Grenadines, Trinidad and Tobago, USA. The list excludes Canada because degrees in that country will not necessarily be taught in English, but with a Canadian degree you may still qualify (see below).

If you took your degree in another country, we will rely on an academic database known as UK NARIC (the National Academic Recognition Information Centre) to advise us on whether the degree was taught to the standard of English equivalent to level C1 on the Council of Europe's Common European Framework of Reference for Languages Learning Teaching Assessment (CEFR). You must provide evidence that you hold a degree which is equivalent to UK Bachelors level or higher and which was taught in English as evidence of your English language ability. You should provide the original certificate showing:

- your name;
- the title of the award;
- the date of the award;
- the name of the awarding institution.

If you are awaiting graduation but have successfully completed your degree, the Entry Clearance Officer can consider an academic transcript. This must be on the institution's official paper and bear the official stamp of that organisation and should show the following details:

- your name;
- the name of the awarding institution;
- the course title;
- confirmation of the award.

You should ensure that the contact details for the awarding body are current because we may need to verify the details.

If your degree does not appear on the UK NARIC database as fulfilling the criteria for English language, you will need to supply a certificate as described in 'English language tests' above.

- **Maintenance (Funds)**

You should provide one or more of the following:

- personal bank statements covering a period of 3 months;
- savings account pass book/s covering a period of 3 months;
- letter from your bank confirming level of funds and that they have been held in the bank account for at least 3 months. This must be an original document, on the official letter-headed paper or stationery of the organisation and bear the official stamp of that organisation;
- letter from a regulated financial institution confirming funds

#### **Personal bank or building loan statements**

These should clearly show:

- your name;
- your account number;
- the date of the statement;
- the financial institution's name and logo;
- transactions covering a three month period;
- that there are sufficient funds present in the account on a regular basis;
- the receipt of funds along with regular withdrawals from the account.

Internet statements are acceptable only if they contain all the information above. Statements which simply show the balance in the account on a particular day are not sufficient.

#### **Savings Account pass books**

These should clearly show:

- your name;
- your account number;
- the financial institution's name and logo;
- transactions covering a three month period;
- that there are sufficient funds present in the account on a regular basis;
- the regular receipt of funds along with regular withdrawals from the account.

#### **Letters from a bank or regulated financial institution**

These should clearly show:

- your name;
- your account number;
- the date of the letter;
- the financial institution's name and logo;
- the funds held in your account;
- that the funds have been in bank for at least 3 months.

Letters which state simply the balance in the account on a particular day are not sufficient

**We will refuse your application if we find that any documents are false.**

### **Can I appeal if my application is refused?**

Outside the UK a refusal of entry clearance under PBS does not attract a full right of appeal. You can appeal only on one or more of the following grounds referred to in Section 84(1)(b) and (c) of the Nationality, Immigration and Asylum Act 2002:

- that the decision is unlawful by virtue of Section 19B of the Race Relations Act 1976 (c.74) (discrimination by public authorities), and/or
- that the decision is unlawful under Section 6 of the Human rights Act 1998 (c.42) (public authority not to act contrary to Human Rights Convention) as being incompatible with the appellant's Convention rights.

However, all applicants can apply for an Administrative Review, which is a mechanism for reviewing refusal decisions.

### **What is Administrative Review?**

If we refuse an application for entry clearance and you think that an error has been made, you can ask us to check our decision. This is known as an Administrative Review.

The Administrative Review is free of charge. You must ask for an Administrative Review within 28 days from the date you receive the refusal notice (GV51). You will receive an Administrative Review Request Notice with the Refusal Notice. You must complete this in full and send it directly to the address stated on the Request Notice.

You MUST NOT send any additional documents such as passport or supporting documents with the Administrative Review Request Notice. If the refusal is subsequently overturned, you will be asked to send in your passport. You may request only ONE Administrative Review per refusal decision. Any further review requests for the same refusal decision will not be accepted and will be returned to you. However, where the Administrative Reviewer upholds the refusal but with different refusal grounds, you may request a Review limited to these new refusal grounds.

The Administrative Review will be completed within 28 days and you will be notified of the result in writing. The result of the Review may be sent from a different Post to where the original decision was made, to ensure that the Review is independent.

If you are already in the United Kingdom you cannot apply for an Administrative Review.

For more information about this you should refer to the main guidance on:

<http://www.ukba.homeoffice.gov.uk/workingintheuk/pointsbasedsystem/applying/>

### **Can my dependants join me in the UK?**

Your husband, wife, civil partner or eligible partner and children under 18 can join you as your dependants in the UK if:

- they have a visa for this purpose and
- you can support them without any help from public funds. You need £1,600 for each dependant joining you within 12 months of your arrival in the UK and £533 thereafter.

Partners (married, unmarried, same sex) must intend to live together and the relationship must be subsisting. They must be maintained and accommodated without needing any help from public funds. Your partner must not intend to stay beyond any period of leave granted to you.

If your dependent child is working full-time or earning enough money to support himself/herself, it is unlikely that he/she will qualify for entry to the UK as a dependant. Dependent children must also be able to demonstrate that they have not formed their own independent family, are unmarried and not leading an independent life. If a dependent child has previously been married or formed a civil partnership, or lived in a relationship that is similar to marriage or civil partnership, he/she will usually be considered to have formed an independent family and will

not be eligible to enter the UK as the dependant of their parents. Although dependent children may seek employment whilst in the UK they must remain financially dependent on their parent to qualify as dependants.

### **What do my dependants need to make an application?**

Your dependants will need entry clearance but will not themselves be entering the UK under PBS. They will need to satisfy similar conditions to those in paragraphs 194-199 of the Immigration Rules <http://www.ukba.homeoffice.gov.uk/policyandlaw/immigrationlaw/immigrationrules/part5/> which can be found on the UK Border Agency website. They will need to make their application using form VAF10 either on-line or on paper depending upon the facilities available in the country in which they are applying. They will also need the following:

- their passport or travel document;
  - a recent passport sized photograph  
(please note - photographs should measure 45mm x 35mm and be:
    - in colour taken against a white background;
    - clear and of good quality and not framed or backed;
    - printed on normal photographic paper;
    - full face and without sunglasses, hat or other head covering (unless it is worn for cultural or religious reasons but the face must not be covered)
- If the application is successful, the photographs provided will be reproduced on the visa vignette).
- the visa fee. This cannot be refunded and they must normally pay it in the local currency of the country where they are applying;
  - their biometric details;
  - supporting documents relevant to their application.

### **What supporting documents should my dependants include with their application?**

Your dependants should include all the documents necessary to show that they qualify for entry to the UK as your dependant. If they do not, we may refuse their application.

As a guide your dependants should include:

- evidence of their relationship to you;
- evidence that you can support them and live without needing any help from public funds and
- a copy of the pages from your passport showing your permission to stay, if you are already in the UK.

**We will refuse their application/s if we find any documents are false.**

### **What fee will my dependants pay?**

They will pay the same fee as you.

### **What are public funds?**

Under the Immigration Rules, if you want to travel to the UK, you must be able to support yourself and any dependants without claiming certain benefits.

You can find more information about public funds in the Immigration Rules on the UK Border Agency website: [www.ukba.homeoffice.gov.uk](http://www.ukba.homeoffice.gov.uk).

### **Check your visa**

Please check your visa when you get it. You should make sure that:

- your personal details are correct
- it correctly states the purpose for which you want to come to the UK, and
- it is valid for the date on which you want to travel. (You can ask for it to be post-dated up to three months if you do not plan to travel immediately).

If you think there is anything wrong with your visas, **contact the Visa Application Centre or visa section immediately.**

**More advice and information may be obtained from:**

<http://www.ukvisas.gov.uk/en/>

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

If you are outside the UK please contact your nearest Visa Application Centre (VAC) or where no VAC is in operation your nearest British mission where there is a visa section:

Textphone: (+44)(0) 20 7008 8457

### **Immigration Advisory Service (IAS)**

The Immigration Advisory Service is the UK's largest charity providing advice and representation in asylum, immigration and nationality law. It has offices right across the UK and abroad, and provides a free service to those who are eligible. It may also be available to help those who are not. The IAS is a non-profit service. Immigration Advisory Service [link]

3<sup>rd</sup> Floor, County House  
190 Great Dover Street  
London SE1 4YB

Telephone: (+44)(0)20 7967 1200  
Duty Office (open 24 hours a day): (=44)(0)208814 1559  
Fax: (+44)(0)20 7403 5875  
Email: [advice@iasuk.org](mailto:advice@iasuk.org) [link]  
Website: [www.iasuk.org](http://www.iasuk.org)

### **Revenue and Customs**

For advice on bringing personal belongings and goods into the UK contact:

HM Revenue and Customs [link]

Dorset House  
Stamford Street  
London SE1 9PY

Telephone: (+44)(0)845 010 9000  
Website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

### **Drugs warning**

Anyone found smuggling drugs into the UK would face serious penalties. Drug traffickers may try to bribe travellers. If you are travelling to the UK avoid any involvement with drugs.

### **Warning: submission of false documents**

Travellers to the UK will commit an offence if they produce a false travel document or passport to the UK Immigration Authorities for themselves and/or their children. People found guilty of this offence face up to two years in prison or a fine (or both).

New amendments to the Immigration Rules which came into force on 29 February 2008 stipulate that an application in which deception is used will automatically be refused. From 1 April 2008 further amendments to the Immigration Rules mean that applicants who use deception in their applications will have any future applications they make refused for 10 years.