

UK residency and citizenship for sponsored employees

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UK residency and citizenship

- **Work-based immigration to the UK**
- **Applications for extensions**
- **Indefinite Leave to Remain**
- **Applications for Dependants**
- **Nationality applications**
- **Changes in the Immigration Act 2016**
- **Questions**

1. Work-based immigration in the UK

Work-based immigration

Certificates of Sponsorship, visas, Biometric Residence Permits and Leave to Remain

Certificate of Sponsorship requirements:

- employer offering a role as an employee
- minimum skills and salary requirement is met
- the employer has registered as a sponsor, has an allocation of certificates to issue and meets the sponsor duties
- any resident labour market test requirements are fulfilled (or, alternatively, there is an exemption)

Work-based immigration

Rights and Obligations of sponsored workers

- Employers reporting duties
- Limitations of CoS: secondary and supplementary employment
- Switching immigration status
- Timing of extension application
- Civil and criminal liability
- Mandatory bans from return to the UK

Work-based immigration

Current trends in Tier 2 applications

- Criteria becoming distinctly more difficult
 - salary,
 - skill level,
 - terms of the resident labour market test
 - settlement restriction
- Payment of Health Surcharge and Skills Charge
- “A hostile environment”
- Fewer applications than previously

2. Applications for extension of leave to remain

Extension of leave to remain

Requirements to apply

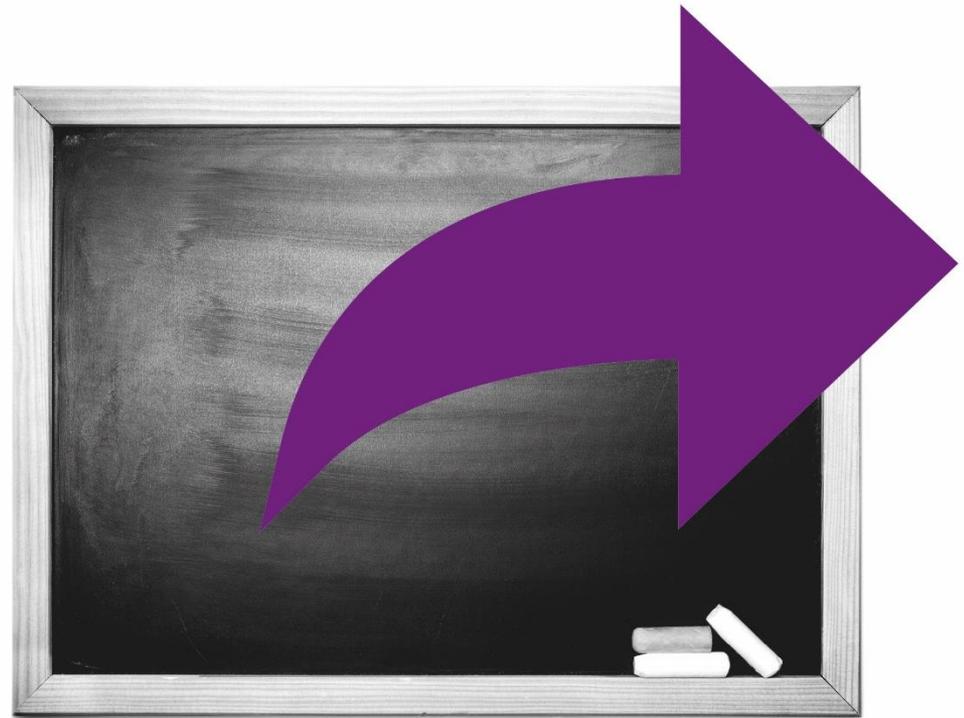
- Application process
- Documents likely to be needed:
 - the on-line immigration extension application form;
 - passport, BRP and photographs;
 - confirmation of payments;
 - evidence of ongoing employment
- Timing of the application



Extension of leave to remain

Options regarding applying

- Postal, premium or fast track?
- Using a courier service



Extension of leave to remain

Common problems

- Timing of applications
 - Applying after leave to remain has expired
 - Narrowly missing settlement requirements
 - Documentation required back urgently
- Change in role or salary
- End of employment
- Application returned as invalid by UKVI

3. Applications for indefinite leave to remain

Indefinite of leave to remain

Requirements to apply

- Five years as a qualifying person in the UK;
- Still required for qualifying UK role
- Salary requirement for non-PhD roles
- Residence requirements
- Knowledge of Life and Language in the UK



Indefinite of leave to remain

Process to apply

- Complete application form SET (O). Also need:
- Passport, photographs and BRP;
- Evidence of KoLL pass
- Letters to confirm still required for role, salary and absences
- Most recent payslip and bank statement

Possible to use expedited service to apply in person – otherwise likely to take six months

Indefinite leave to remain

Common problems

- Timing of applications
 - Applying after leave to remain has expired
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 - Documentation required back urgently
- Change in role or salary
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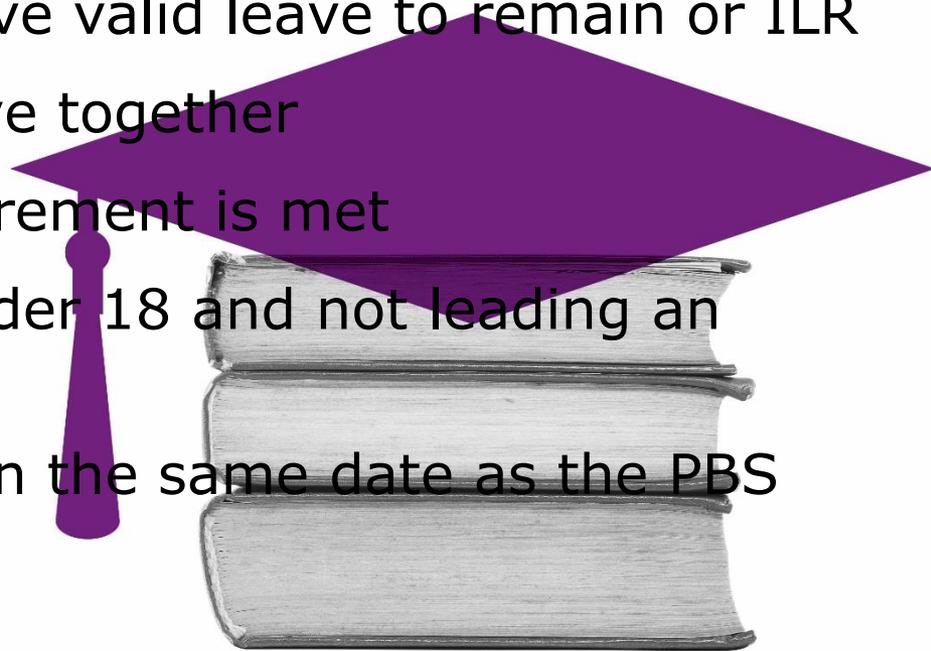
4. Dependants

Dependants

Requirements

- Partner must be spouse, unmarried or same-sex partner of a Points-Based-System Migrant;
- The employee must have valid leave to remain or ILR
- The couple intend to live together
- The maintenance requirement is met
- Children need to be under 18 and not leading an independent life

Leave to enter expires on the same date as the PBS migrant

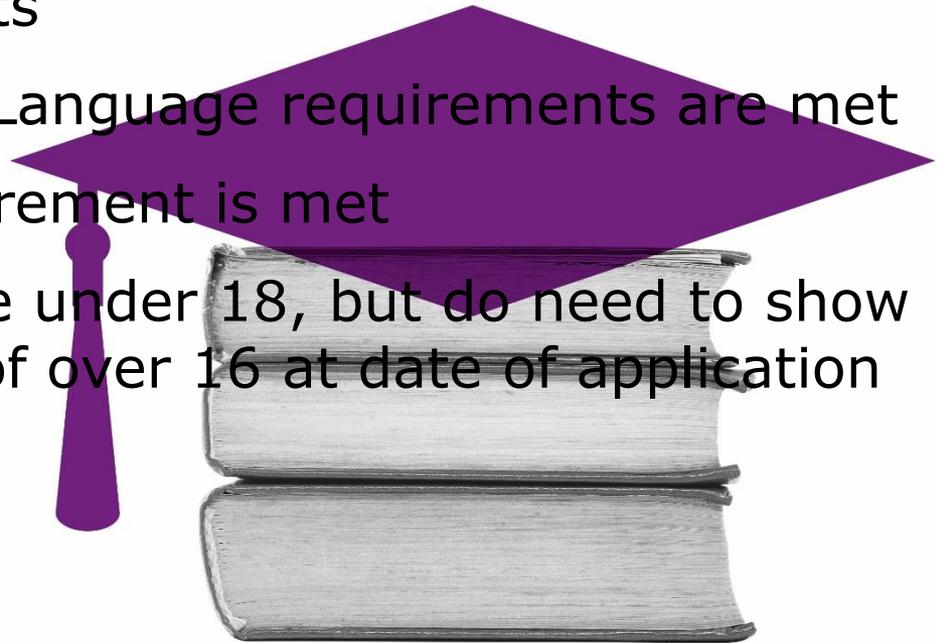


Dependants

Indefinite Leave to Remain

- Partner holds leave to remain as a dependant and been in a relationship with the Migrant for at least 5 years
- The relationship subsists
- Knowledge of Life and Language requirements are met
- The maintenance requirement is met

Children need not still be under 18, but do need to show specific documentation of over 16 at date of application



Dependants

Some common difficulties

- Acquiring 5 years' residence on a different date
- English language
- Proving cohabitation
- Main PBS migrant leaving the UK
- Children turning 18 during stay in the UK

5. Nationality Applications

Naturalisation applications

This is a status which can only be removed in unusual circumstances

There may be an impact on holding existing citizenships alongside this status

Requirements of an application include:



freedom from immigration restrictions for the previous year;



five years' prior residence;



good character and passing Life and Language in the UK test.

Complete Form AN – by post or Nationality Checking Service

6. Recent Immigration Changes

2016 changes

Migration Advisory Committee consultation

New minimum salary of £30,000
for Tier 2 General

Major changes and restrictions upon
Intra Company Transfer

Additional fees/levy - up to £1,000
per year

Recent students remain exempt from
resident labour market test

Changes implemented from autumn



The Immigration Act 2016

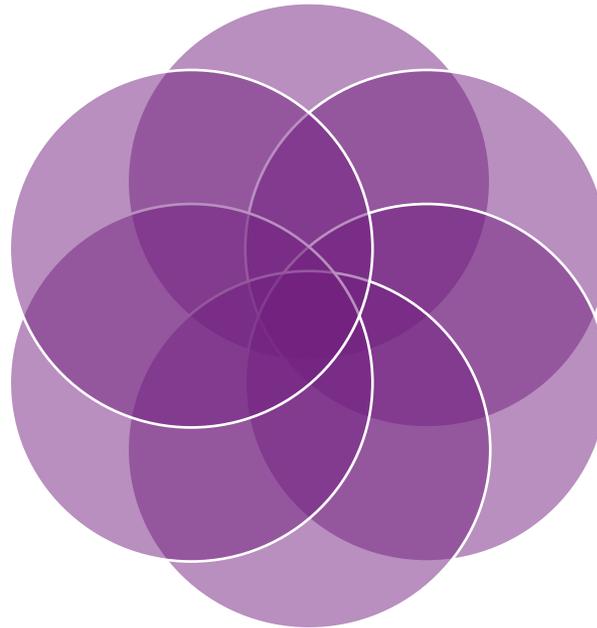
Summary of key changes

1. Illegal working becomes a criminal offence

2. Offence of employing an illegal worker will require a lower standard of proof for conviction

3. New enforcement agency focusing on exploitation of migrant workers

4. Regulations prohibiting employment agencies advertising UK jobs exclusively in other EEA countries expanded to make illegal any adverts placed exclusively overseas



6. Levy on businesses to up-skill workforce through apprenticeships and training

5. UK's position in the EU renegotiated to reduced EU worker migration

Questions?

