

# **UK Immigration limit for Tier 1 (General) of the points based system and changes to tier 1 points**

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The points based system in the UK Immigration field continues to have changes. Most recent changes are with respect to Tier 1 (General). Basically, if a person is in the UK and seeking to extend their stay into tier 1 (general) the points will be 95 points. If a person is in the UK in any other category such as Tier 1 (post study work) then you would need to score 100 points when you switch into tier 1 (General). If a person is applying from outside the UK, a person would need to score 100 points. This change is with effect from the 19th July 2010.

The whole scope of these changes is in line with the new coalition government's policies in the UK which are yet to be fully understood. In essence from April 2011, the government will introduce an annual limit on applications for tier 1 (General) of the points based system. Thus the changes which were effected from the 19th July 2010 would serve as a prelude to the main thrust in the annual limit to be introduced in April 2011. There are categories which are not included in the interim limit. The investor, entrepreneur and post study work categories of tier 1 will not be included in the interim limit. In country extensions under tier 1 (general) will also be excluded from the interim limit.

The interim limit is with effect from the 19th July 2010 and this means that the UK Border Agency will introduce a limit on the number of applications to tier 1 (General) with respect to applications to be considered in any one month. The applications are to be dealt with on a first come first served basis if one applies after the limit for one month has been reached that application would be considered under the limit for the following month.

The changes do not make equivalent provisions for Tier 2 migrants. The interim limits applied in respect of Tier 2 applications will be met by separately limiting the number of certificates of sponsorship that licensed Tier 2 sponsors are authorised to issue. A limit on the number of applications by individual Tier 2 migrants is not therefore required. Such changes could be made without amendments to the immigration rules.

Perhaps whilst still on the subject of points based system one should add that despite the apparent hard approach to it, the good thing about it, is that you can always make your application irrespective of being out of time. A number of people may have received a refusal from the UK Border Agency because they did not provide the necessary documents or meet the maintenance and funding requirements at the time of the application. It is important to note that one can always make another application. This is so because under the points based system a person who is applying for leave to remain must have, or have last been granted, entry clearance, leave to remain (e.g. immigration rule 245C(f).) There is no ban on a further grant of leave to remain merely because an individual has overstayed their leave. If there is a failure to comply with the rules on technical grounds this may not be considered material as to defeat another application being lodged.

The issue of the points based system is a bit technical and may require one putting one's head together with one's solicitor if need be. It all requires joint cooperation depending with issues arising. The main issue having been maintenance and funding thus far which has been considered comprehensively in recent case law.

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