

POINTS BASED SYSTEM: AN OVERVIEW

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To modernise and strengthen the UK immigration system, an Australian-style points system, comprising of five tiers has been introduced in the UK. This Australian-style points system is notably referred to, in the UK, as the points based system.

The point based system has been introduced to replace more than 80 immigration routes for working, studying and training purposes in the UK.

This article will give an overview of the points based system. The subsequent articles will deal with specific tiers under the points based system.

The points based system is not applicable to EEA or Swiss nationals, some British overseas territories citizens, Commonwealth citizen with permission to enter or stay in the UK on ancestry grounds and those with Indefinite Leave to Remain in the UK.

The five tiers are the following;

1. Tier 1 - For highly skilled individuals who will contribute to growth and productivity in the UK;
2. Tier 2 - For skilled workers with a job offer to fill gaps in the UK labour force;
3. Tier 3 - For limited numbers of low skilled workers needed to fill temporary labour shortages such as construction workers for a particular project;
4. Tier 4 - For students.
5. Tier 5 - For youth mobility and temporary workers. This category will allow people to work in the UK for a limited period of time. People who can apply under this category include musicians coming to play for a concert or those coming for cultural, charitable, religious or international development reasons.

For each tier, applicants will have to meet a points target. Applicants will have to score enough points to gain entry clearance or leave to remain in the UK. These points are awarded based on an objective and transparent criteria.

For example, under Tier 2, points are awarded for Attributes, English language and Maintenance (funds). The applicant must also be at least 16 years old and must score at least 50 points under Attributes and 10 points each, under English language and Maintenance.

The good news is that prospective applicants can assess themselves against these criteria using the UK Border Agency points-based calculator. This is an online self assessment tool. This will help applicants to establish whether they have enough points to qualify under a given category before paying an application fee. This is intended to save applicants the wasted time and cost of a failed application.

It is important to note that documentary evidence is rigorously checked. No points will be awarded if there is a reasonable ground to believe that a document is not genuine.

A decision not to award points will be taken after reasonable steps to verify the authenticity of the documents have been undertaken. If the genuineness of the documents can not be verified points will not be awarded.

It is important to submit all relevant documentary evidence at the time of application. Although post application evidence to show that an applicant qualified under a particular tier pre-application can be provided on appeal, it is always advisable to submit all relevant documents at the time of application. Very soon new legislation will be introduced to prevent the court from looking at evidence not submitted at the time of making an application.

The five tiers have different conditions, entitlements and entry clearance checks. Those in Tiers 1, 2 and 4 are eligible to switch between these tiers subject to meeting the requirements of the tier they wish to switch to.

Case Scenario:

Ama is in the UK as a Tier 2 (General) Migrant. Ama wants to switch from Tier 2 to Tier 1 (Highly skilled) Migrant. If Ama meets the requirements of Tier 1 (Highly Skilled) Migrant category, she can make an in-country application for further leave to remain as a Tier 1 migrant.

Those in Tier 3 and 5 are not able to switch out of them once they are in the UK. This means they can only switch to another category only if they leave the UK and make an entry clearance application.

Tiers 1 and 2 potentially lead to settlement if settlement requirements are met at the time of the application. It is important to also note that a migrant can bring his or her dependants if the migrant has leave to remain or leave to enter as a Tier 1, 2, 4 or 5.

Dependants are not allowed to work under certain circumstances. A dependant accompanying a student (Tier 4) or a temporary worker (tier 5) who has been given less than 12 month's leave in the UK is not allowed to work.

Apart from Tier 1, all applicants in Tiers 2-5 have to provide a sponsorship certificate from a licensed sponsor. The certificate will basically prove that a migrant is able to do a particular job or is able to undertake a particular course of study.

It is important to note that apart from tier 3, all the other tiers have been implemented by the UK Border Agency.

The UK Immigration Laws are always changing. It is important to seek legal advice when you are not certain about your immigration status.

Disclaimer: This article only provides general information and guidance on UK immigration law. The specific facts that apply to your matter may make the outcome different than would be anticipated by you. The writer will not accept any liability for any claims or inconvenience as a result of the use of this information.