

ILPA information sheet

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Options for Graduates (II)

Introduction and Tiers 2, 4 and 5

This information sheet focuses on Tiers 2, 4 and 5. For a general overview of the options for graduates and information on options under Tier 1 of the points-based system, see the information sheet Options for Graduates (I).

TIER 2 (General) Migrants

This route enables UK employers to recruit a limited number of workers from outside the European Economic Area (EEA) to fill a particular vacancy that cannot be filled by a British or other EEA worker. The Home Office has published guidance on this route.¹ Whether the vacancy can be filled by a non-British or other EEA worker is determined in one of the following ways:

- By the job being on a Home Office “shortage occupation list” meaning that in general there are not enough British or other EEA workers to fill these jobs;
- By the job being on the list of PhD level jobs (i.e. jobs that you cannot do unless you have a PhD. These are mainly research posts);
- By the applicant being in a “post study work” category.
- By the salary being £152,100 or higher;
- By the vacancy not having been filled despite appropriate advertising at an appropriate salary (what is appropriate is the subject of Home Office rules and guidance). This is called the “Resident Labour Market Test”.

The post-study work categories are: (i) a Tier 2 (General) Migrant with a points from the Post-Study Work provisions of Appendix A, (ii) a Tier 2 (General) Migrant and scores points from the Resident Labour Market Test provisions of Appendix A, on the basis that his Sponsor has carried out a university milkround, (iii) a Tier 2 (Intra-Company Transfer) Migrant in the Graduate Trainee sub-category, or (iv) under the age of 26 on the date the application was made,

In addition, an applicant continuing to work as a doctor or dentist in training, or specialist doctor in training whose wages and training costs are met by the government of another country does not have to fulfil the resident labour market test.

¹ <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/tier2-guidance.pdf>

For recruitment taking place after 06 April 2013, switching into Tier 2 has been made easier for UK students and graduates. UK graduates (and PhD students after completing 12 months of study) are exempt from the Resident Labour Market Test if other requirements are met, including skills level, minimum wage level, English language and maintenance requirements.

TIER 4

This route is generally for those aged 16 or over who wish to study in the UK. It is generally only possible to remain in the UK in this category for degree level study for an aggregate of five years, although there are still a variety of exceptions to this, including studies on post-graduate research courses. The Home Office has published guidance on this route².

Tier 4 now includes provision for post-graduate doctors or dentists (having graduated with a UK degree) to apply for leave to remain to work on a recognised Foundation Programme.

There is also a 'Doctorate Extension Scheme' under which a PhD student may extend their leave to remain for 12 months beyond the end date of their course with unlimited access to the labour market. The Doctorate Extension Scheme is envisaged as a period during which eligibility to apply as Tier 1 (Graduate/Entrepreneur) migrants (see the information sheet "Options for Graduates (I)") or Tier 2 (General) Migrants (see above) can be established.

TIER 5

Graduates can also leave the UK and apply for entry clearance under Tier 5. Tier 5 is a mixed bag of provisions. The maximum stay under Tier 5 is between 12 and 24 months depending on the category and, in general, there is no switching into Tier 5 (specific exceptions include creative workers) and maintenance requirements. Tier 5 includes a number of options that may be of interest to some graduates:

- A "Youth Mobility" Scheme for sponsored nationals of Australia, Canada, Japan, New Zealand, Monaco, South Korea and Taiwan and British nationals who are not British citizens. This the successor to the old "working holidaymaker" category but covers a much more limited range of countries;
- Provision for charity workers who can support themselves to undertake voluntary (unpaid) work;
- Provision for certain religious workers;
- Government Authorised Exchange Schemes. There are a whole range of such schemes, covering work experience, research and training. Who can come to the UK under the scheme depends on the particular scheme.
- Provision for certain creative and sporting persons (where the work could not be carried out by a settled worker) although only a few graduates will meet the requirements for this category.

It is very important to read the Rules and Guidance carefully. Some categories allow a person to apply whilst you are still in the UK ('switch') and others require you to return to your home country and apply for entry clearance.

² <http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/pbs/Tier4migrantguidance.pdf>