

UK business immigration Changes to the highly skilled migrant programme (HSMP)

Introduction

Without warning, on 7 November 2006 the Home Office announced new criteria for the HSMP scheme with effect from 8 November 2006. Consideration under the new scheme will begin on 5 December 2006. In the interim, the HSMP scheme has been suspended.

Any initial or extension applications under the HSMP received after 7 November must meet new points and mandatory criteria (unless limited transitional arrangements apply).

The HSMP scheme will continue to allow successful applicants to undertake self-employment or employment without a prior offer. Initial leave will be granted for two years and may be extended for a further three years.

Initial HSMP applications

Under the new criteria, 75 points are required. Points are no longer awarded for work experience, achievement in a chosen field or partner's achievements and GPs are no longer given priority. Applicants may now only gain points for qualifications, previous earnings, work or study in the UK, age, and for having an MBA from the list of eligible MBA programmes.

Only evidence specified in the HSMP guidance notes may be accepted. The mandatory criteria under the old scheme have been removed, and an English language requirement has been introduced.

HSMP extension applications

Under the old HSMP extension criteria, for a further three years' leave to remain as a highly skilled migrant to be granted, an applicant was required to demonstrate that he had taken reasonable steps to become lawfully economically active in the UK. This was not a points based application.

As with the new initial HSMP criteria, at least 75 points must be awarded to successfully extend leave as a highly skilled migrant. Points are only awarded for qualifications, previous earnings, work or study in the UK and age; applicants must also satisfy the English language requirement.

For applicants who obtained highly skilled migrant status under the old criteria and who do not qualify under the new extension criteria, the transitional arrangements discussed below may apply.

Transitional arrangements

Transitional arrangements apply only to individuals whose leave as a highly skilled migrant was granted prior to 8 November. The Home Office has yet to confirm whether the transitional arrangements will be extended to those who applied under the old HSMP criteria and obtain leave after 8 November.

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Self-employed highly skilled migrant

The transitional arrangements will enable a self employed person to make a successful HSMP extension application even if he is not able to meet the points criteria. The applicant will be required to demonstrate that he established a business which has been actively trading for at least four months prior to the extension application and that the business has ongoing contractual or business commitments for another six months.

Employed highly skilled migrant

If a highly skilled migrant who is employed in the UK, having obtained leave under the old HSMP criteria, is unable to meet the points criteria for an extension application, he may not extend leave as a highly skilled migrant.

However, individuals who have spent more than twelve months in the UK as a highly skilled migrant and have held a position with a single employer for at least twelve months may apply for a work permit without the employer being required to demonstrate a genuine attempt to recruit from the resident labour force. If the individual has spent twelve months or less in the UK as a highly skilled migrant, only eight months of employment with a single employer is required for these transitional arrangements to apply.

English language requirement

If an applicant's leave as a highly skilled migrant is due to expire but he is not able to satisfy the English language requirement, the application should still be submitted to the Home Office before the expiry of leave. The applicant will be allowed ten weeks to obtain and provide evidence of the necessary English Language qualification.

Further assistance

This document briefly outlines the ways in which the HSMP scheme has changed following the Home Office announcement on 7 November. However, it is not exhaustive and individuals should seek specialist advice regarding any specific enquiries they may have about their own circumstances.

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