

# **ILPA** information sheet

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## **Points Based System – Dependants**

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In certain circumstances, migrant workers and students may come to the UK with, or be joined in the UK by, dependant relatives. This information sheet provides information about the dependants of migrants to the UK under the Points Based System.

The information provided here applies to each of Tiers 1, 2, 4 and 5 of the Points Based System – unless otherwise stated. However, the Government is currently consulting on proposals that include no longer permitting Tier 5 migrants to sponsor their dependant relatives – see the August 2011 “Employment-related Settlement 1 – Consultation” information sheet.

### **Which relatives?**

Under the Points Based System, the following relatives may be permitted to come to or stay in the UK to be with a migrant worker or student:

- Spouse or civil partner
- Unmarried or same-sex partner
- Dependent child under 18 years of age (but a child granted leave to enter or stay in the UK may be permitted to stay beyond his or her eighteenth birthday, including being granted further leave in this capacity)

In the case of a spouse, civil partner, unmarried or same-sex partner, both parties to the relationship must be at least 18 years of age. Although the Immigration Rules say the parties must be at least 21 years of age, the UK Border Agency’s Points Based System (Dependant) – Policy Guidance makes clear that the lower age applies (see paragraph 37 of current guidance, version 07/11).

### **For how long?**

A dependant relative may be granted leave to stay in the UK for no longer than the migrant worker or student has been granted leave to stay in the UK.

### **Is a visa required?**

Dependant relatives wishing to join or accompany a migrant worker or student to the UK require a visa. This is the case of all dependant relatives, except in certain cases of the dependants of Tier 5 (temporary worker) migrants. However, even in these Tier 5 cases, the dependant will require a visa if he or she is a ‘visa national’ or is not accompanying the Tier 5 migrant at the time that he or she arrives in the UK. Appendix 1 to the Immigration Rules lists several countries. Nationals of these countries are ‘visa nationals’.

## **Permission to work**

In most cases, dependant relatives granted leave to enter or remain in the UK will be permitted to work. However, there are some exceptions:

- There are particular restrictions in the Immigration Rules concerning those who wish to work as trainee doctors or trainee dentists
- Dependants of migrant students (Tier 4) will not be permitted to work if their migrant student sponsor is applying for or has been granted leave for a period of less than 12 months
- Dependants of migrant students (Tier 4) will not be permitted to work if their migrant student sponsor is studying at below degree level

Dependants of migrant temporary workers (Tier 5) are currently permitted to work, but the Government has proposed that this should be changed – see the August 2011 “Employment-related Settlement 1 – Consultation” information sheet.

## **Maintenance and accommodation**

The reason dependant relatives may be permitted to come to the UK is to be with the migrant worker or student. They must, therefore, while here, be living with that person (the sponsor). Just like the sponsor, they will be required to support themselves (or be supported by the sponsor). They will not have access to public funds.

To apply successfully to come to or stay in the UK, these dependant relatives must show they have access to particular sums of money (for “maintenance”) as set out in Appendix E to the Immigration Rules. The sums of money that are specified differ depending on the Tier of the Points Based System under which the sponsor is working or studying (or is applying to work or study) in the UK.

## **Settlement**

The dependant relative may be permitted to apply for indefinite leave to remain (settlement) at the same time as his or her sponsor applies for indefinite leave to remain, or may apply for this after his or her sponsor is granted it. However:

- Tier 4 does not provide a migrant student the option of applying for indefinite leave to remain (so a dependant of a migrant student will also not have this option)
- Tier 5 does not provide a temporary worker the option of applying for indefinite leave to remain (so a dependant of a temporary worker will also not have this option)

The Government is currently consulting on proposals that include no longer permitting some other Points Based System migrants the option to apply for indefinite leave to remain (if implemented, this proposal would also affect their dependants) – see the August 2011 “Employment-related Settlement 1 – Consultation” information sheet. The Government is currently consulting on proposals that include delaying the point at which dependants of migrant workers (Tiers 1 and 2) may be permitted to apply for indefinite leave to remain – see the August 2011 “Family Migration Consultation 2” information sheet.

Other requirements for dependant relatives making settlement applications include that they are free of unspent criminal convictions – see the April 2011 “Settlement and Unspent Convictions” information sheet.

## **English language**

There are no English language requirements for a dependant relative to come to or stay in the UK to be with a migrant worker or student. If the dependant wishes to apply for settlement, however, there is an English language requirement. The Government has proposed raising the language requirement – see the August 2011 “Family Migration Consultation 2” information sheet.