



Home Office

**Border &
Immigration Agency**

SPONSORSHIP UNDER THE POINTS BASED SYSTEM

STATEMENT OF INTENT

CONTENTS

MINISTERIAL FOREWORD	5
EXECUTIVE SUMMARY	6
SECTION A: THE IMMIGRATION PROCESS UNDER PBS	9
Introduction	9
The role of sponsorship	9
After admission to the UK – the biometric identity card	9
Warning – consequences of employing migrants illegally	9
SECTION B: APPLYING FOR A LICENCE	10
How the application will be made	10
How the application will be decided	10
Circumstances in which the application will be refused	10
Circumstances in which the application will normally be refused	11
Circumstances in which the application may be refused	11
Circumstances in which a B-rating will be awarded	12
Circumstances in which a B-rating may be awarded	12
Requirements for specific PBS categories	12
Skilled workers with a job offer	13
Religious workers	13
Sportspeople	13
Intra-company transfers	13
Low-skilled workers	14
Students	14
Voluntary workers	15
Temporary workers in Exchange schemes	15
Temporary creative and sporting workers	15
Temporary workers under international agreements	16
Youth Mobility	16
Umbrella bodies	16
Informing the prospective sponsor of the result of the application	17
Reapplying after having been refused	17
How a successful applicant will be licensed	17
Registration as a single entity or as a number of branches	17
Franchises	17
SECTION C: APPLYING FOR AND ALLOCATING CERTIFICATES OF SPONSORSHIP	18
The number of certificates that may be issued	18
Use of representatives	18
The certificate of sponsorship itself	18

SECTION D: DUTIES OF A SPONSOR	20
Generic duties	20
Duties specific to sponsors under particular parts of the PBS	22
Skilled workers	22
Low-skilled workers.....	22
Students	22
Temporary categories.....	22
Compliance with duties	24
Concerns/queries about duties	24
SECTION E: ENFORCING COMPLIANCE	26
Circumstances in which a sponsor will have its licence withdrawn.....	26
Circumstances in which a sponsor will normally have its licence withdrawn	26
Circumstances in which a sponsor may have its licence withdrawn	27
Circumstances in which an A-rated sponsor will be downgraded to a B-rating, and a B-rated sponsor will lose its licence	28
Circumstances in which an A-rated sponsor may be downgraded to a B-rating, and a B-rated sponsor will lose its licence	28
Actions of representatives.....	28
Procedure	28
Suspending a sponsor	29
Treatment of migrants when a sponsor loses its licence	29
B-rated sponsors	29
Sponsorship action plans	29
Other consequences of a B-rating.....	30
Illegal working.....	30
SECTION F: RENEWING OR SURRENDERING THE LICENCE	33
Renewing a licence:	33
Surrendering a licence.....	33
SECTION G: TAKEOVERS/TRANSFER OF EMPLOYMENT	34
SECTION H: COMPLAINTS	35
SECTION I: AMENDMENTS TO THE SPONSORSHIP POLICY	36
SECTION J: COMMENTS ON THIS DOCUMENT	37
APPENDIX A: EVIDENCE TO BE REQUIRED FROM PROSPECTIVE SPONSORS	38
APPENDIX B: RELEVANT CRIMINAL OFFENCES	47
APPENDIX C: RELEVANT CIVIL PENALTIES	49

MINISTERIAL FOREWORD FROM LIAM BYRNE MP



Britain's economy and society profits from migration that is effectively managed and controlled. But our system must change if it is to be fit for the future. Over the next 12 months, we will be introducing sweeping changes. These include:

- The Points-Based System, which will enable us better to manage economic migration. Our points policy will be advised by a Migration Advisory Committee, which will help us make better informed decisions about the migrants our economy needs, and a Migration Impact Forum, which will help us analyse the wider effects of migration.;
- A Single Border Force, bringing together the Border and Immigration Agency, Customs and UK Visas. This will provide tougher policing at ports and airports with a highly visible, uniformed presence, counting all migrants in and out of the UK;
- The introduction of compulsory identity cards for foreign nationals, helping us to know who is here and what they are entitled to do.

Under the Points Based System, employers, colleges and others who benefit from migration and wish to act as sponsors of skilled, temporary or student migrants will need a licence to do so. This means they agree to fulfil certain duties.

This is a crucial part of our overall architecture, designed to ensure that those who work in the UK work legally.

In this Statement of Intent we set out how a would-be sponsor can gain a licence, what duties we will ask them to perform and how we will manage the system. We are publishing this document now so that those affected by these changes can prepare for them. We are also giving people the opportunity to comment on them.

We will give businesses and others the opportunity to apply for sponsorship licences from early 2008. We have developed this document working closely with employers' representatives and others in order to ensure that the system is as easy to use and streamlined as possible while strengthening the Border and Immigration Agency's control of the system.

We are also publishing details of our new regime of offences for employers illegally employing migrant workers, which we intend to implement at the same time. These two new policy changes will together ensure that those employing migrant workers are clear about their responsibilities, have the support they need to carry them out, and are clear too that Government will take speedy and proportionate action against them should they fail to comply with those responsibilities.

I believe that our new sponsorship regime will be the bedrock of the Points Based System and will help us to deliver and enforce the controls on migration that Britain needs and expects.

A handwritten signature in black ink that reads "Liam Byrne". The signature is written in a cursive style and is underlined with a single horizontal line.

Liam Byrne MP
Minister of State for Borders and Immigration

EXECUTIVE SUMMARY

Introduction

1. Anyone wanting to come to the UK under the Points-Based System (PBS) will need to show that he or she has enough **points** to qualify. Points can be earned in different ways- e.g. for qualifications and earnings. However, before he or she is even eligible to apply, the migrant will require a **sponsor** (other than in the highly skilled tier of the PBS, known as Tier 1).
2. The sponsor will be a business or college in the UK that wishes to employ the migrant, or has accepted him or her onto a course. In order to become a sponsor, the organisation will need to be **licensed** by the Border and Immigration Agency.
3. This document explains how the system of licensed sponsors will work.
4. The licensing of sponsors is one of the key changes that will make PBS robust. Would-be migrants under PBS, and the sponsors who employ or teach them, will be subject to tough controls, including the following:
 - a. No longer will anyone be able to bring migrants to the UK. A licence will be needed first. No-one will be granted a sponsor's licence without being **approved in advance by the Border and Immigration Agency**. Licensed sponsors will indicate the migrants they wish us to admit, by issuing them with a **certificate of sponsorship**.
 - b. Everyone wanting to come to the UK under PBS will need **prior entry clearance**, which they will not be allowed to apply for without a certificate of sponsorship. However, a sponsorship certificate in no way guarantees that a visa will be issued. If an application, and the documents supporting it, cannot be

independently verified, that application will be refused.

- c. All migrants allowed to come here will need to obtain a **biometric identity card**, so we know exactly who they are and what they are entitled to do.
- d. As a condition of keeping their licence, sponsors will need to alert us if migrants do not comply with their immigration conditions- for example if they disappear or do not turn up for their job or course. Any sponsor that does not comply with this requirement will risk losing its licence.

The principles of sponsorship

5. Sponsorship in the PBS is based on two fundamental principles:
 - a. Those who benefit most directly from migration (that is, the employers, educational institutions or other bodies who are bringing in migrants) should play their part in ensuring that the system is not abused, e.g. by alerting us if their migrants do not turn up for their job or course, or if they disappear; and
 - b. The Border and Immigration Agency needs to be sure that those applying to come to the UK to do a job, or to study, are eligible to do so and that a reputable employer or college genuinely wishes to take them on.

How the system will work

6. In order to gain a licence, a prospective sponsor will need to apply to the Border and Immigration Agency, supplying specified evidence. We may refuse to issue a licence if there is anything in the sponsor body's history,

or that of the people managing or controlling it, which suggests that it could be a threat to immigration control or that it would be unable or unwilling to carry out its obligations.

7. Once licensed, the sponsor will be able to apply for **certificates of sponsorship**, which it will allocate to migrants coming here to work for or study with it.
8. The issue of a certificate of sponsorship authorises the migrant to apply for entry clearance but does **not** mean that his or her application will succeed. The Border and Immigration Agency will make the final decision about who is allowed to come here. The migrant will need to obtain sufficient points, and is also likely to be refused if there is anything in his or her personal or immigration history that suggests that his or her presence in the UK is not desirable.
9. Sponsors will have to comply with certain duties, including a duty to inform the Border and Immigration Agency if migrants do not turn up for their job or course, or if they are absent without permission for a significant period. They will also have to keep proper records of the migrants they have sponsored, including contact details (and, in due course, details of the migrant's ID card) , and supply them to us on request. The duties are set out in detail in Section D.
10. The Border and Immigration Agency will monitor sponsors' behaviour and compliance with their duties once they are licensed, in particular by:
 - a. making visits, pre-arranged or not, to check compliance;
 - b. setting review points in terms of numbers of certificates at which we will review sponsor activity. These points can be "hard" ie they won't be able to issue any more certificates until we are satisfied the sponsor activity is satisfactory, or "soft" ie they can continue to issue certificates while the checks are carried out;
 - c. issuing civil penalties where we find evidence of such an offence. We will also refer for prosecution where appropriate.
11. All sponsors will be rated **A or B**. Most sponsors will be A-rated most of the time, but in certain circumstances, according to our assessment of the risk posed by the organisation, we will award a B-rating. A sponsor that is B-rated will need to comply with a time-limited **action plan**, which will set out the steps it needs to take in order to gain or regain an A-rating. If it does not comply with this plan, it is likely to lose its licence altogether and so be unable to bring non-EEA nationals into the UK.
12. Where we consider that a sponsor has not been complying with its duties, has been dishonest in its dealings with us or otherwise poses a threat to immigration control, we may **withdraw its licence** or downgrade it to a B-rating. We will, of course, give it an opportunity to explain its case to us before taking any such action.
13. We are introducing, in parallel to this new system of sponsorship, a regime of offences relating to the employment of illegal migrant workers. These measures for the first time introduce a two-pronged approach to tackling illegal working: a system of civil penalties for those employers who employ illegal migrant workers as a result of negligent recruitment and employment practices, and a tough new criminal offence, which carries a maximum two

year prison sentence and/or an unlimited fine for those employers found to be knowingly employing migrant workers illegally.

14. The costs of licensing will be met by users of the immigration system. There is a range of options for doing this, and we will set fees for sponsorship by balancing the need to recover the full cost of providing our services while maintaining the global competitiveness of the UK. We will charge a range of different prices as a result. We think that the fees paid by employment sponsors should be similar to the current fees paid by employers using the work permit system. Actual fee levels will be subject to Parliamentary approval and regulations setting out our proposals will be made in the usual way in due course.
15. We aim to introduce the licensed sponsorship system in the first quarter of 2008. The Border and Immigration Agency will issue the formal rules that will govern the licence regime in advance of its introduction, and revise them periodically thereafter. Initially the system will not enable sponsors to gain a licence to bring in students. This part of the system will be introduced at a later date.
16. The requirement to have a sponsor will not apply to nationals of the European Economic Area (EEA)¹, or to migrants in the highly skilled tier of PBS (known as Tier 1).

1 References to EEA nationals here and elsewhere in the text should be read to include Swiss nationals

SECTION A: THE IMMIGRATION PROCESS UNDER PBS

Introduction

17. Under PBS, it will be for the Border and Immigration Agency to decide who is admitted to, or allowed to stay in, the UK.
18. Everyone coming to the UK under the new system will need **prior entry clearance**. He or she will need to apply for a visa to the British Embassy or High Commission in his or her home country, providing **verifiable evidence** of entitlement to the necessary points.
19. All migrants will also be subject to background checks, and if there is anything in an individual's personal or immigration history to suggest that it would be undesirable to allow him or her to come to the UK, the application is likely to be refused.

The role of sponsorship

20. However, **before we will even consider a migrant under PBS**, he or she will (unless applying in the highly skilled tier) need a **sponsor** in the UK. That sponsor will need to have been **licensed** by the Border and Immigration Agency.
21. Sponsorship plays two main roles in the PBS application process:
 - a. It provides evidence that the migrant *has a genuine job or course to go to in the UK*;
 - b. It acts as a pledge from the sponsor that it will accept the responsibilities of sponsorship in respect of the migrant (see Section D);

After admission to the UK: the biometric identity card

22. We plan to issue **Identity Cards** to successful in-country PBS applicants from 2008. These will only be issued after the migrant has registered his or her fingerprints with the Border and Immigration Agency. This will allow us to be sure of the identity and entitlements of everyone who is here under the PBS.

Warning: Consequences of employing migrants illegally

23. It is particularly important that employers make sure that their non-EEA employees are entitled to work for them. The Border and Immigration Agency takes the issue of illegal working very seriously, and will subject those who employ people illegally to a hierarchy of penalties, set out in more detail from paragraphs 140-146.
24. Our compliance officers will be fully trained in identifying and investigating illegal working, and will not hesitate to issue civil penalty notices, or refer cases for prosecution, where appropriate. It is therefore vital that employers comply with the conditions of their licences, and only employ people who are legally allowed to work here.

SECTION B: APPLYING FOR A LICENCE

How the application will be made

25. Applications for a licence can only be made electronically. The application form, and accompanying guidance notes, will be provided on the Border and Immigration Agency web-site in advance of the introduction of sponsorship. Potential sponsors should read the guidance notes carefully before applying. After making the application electronically, the applicant must send in hard copies of the required documents within 14 days. Original documents must be sent if we ask for them.
26. On the application form, the applicant should indicate under which Tiers and categories of the PBS it wishes to be licensed as a sponsor. We will only license an applicant under a specific part of PBS if he or she meets the relevant licensing criteria (see paragraphs 39-68 for the criteria for specific categories).

How the application will be decided

27. Applications for a licence will be considered by the Border and Immigration Agency. A key part of our role is to **investigate** applicants in order to ensure that licences are only granted to bona fide organisations who are likely to comply with their conditions.
28. The Border and Immigration Agency will be guided in all compliance activity by risk assessments so that our visits and other activity are focused on the areas of highest risk to the system. Our compliance officers will be trained and equipped to issue civil penalty notices, or refer cases for prosecution, where they find evidence of wrongdoing or criminal activity.

29. Any applications for a licence where there is little known about an organisation or the slightest doubt about its bona fides will be referred for extensive checks which may include an on-site visit by a Border and Immigration Agency compliance team.

Circumstances in which a licence application will be refused

30. The application will be refused if:
 - a. The documents that Appendix A requires the applicant to supply in order to prove that it is bona fide are not provided. Before refusing the prospective sponsor in these circumstances, we will write to it, giving a final opportunity to supply the documents. If the documents required are still not provided within the period we specify, the application will be refused.
 - b. The prospective sponsor or another appropriate person² submits any document with its application which is forged, false or otherwise not genuine. If this happens, and we believe that a criminal offence has been committed, we will not hesitate to refer the case for prosecution as well as refusing the application.
 - c. The prospective sponsor does not meet the specific requirements that apply to the part of PBS (“Tier”) under which it is applying to register. Where the prospective sponsor meets the requirements for some parts of PBS, but not others, we will only license it for the parts under which it qualifies.
 - d. Where the prospective sponsor, or another appropriate person, has been issued with a civil penalty under one of the provisions in

² Throughout this document, the term “another appropriate person” means one of the sponsor (or prospective sponsor)’s partners or Directors, its Principal (if the prospective sponsor is an educational institution) or any other person taking part, either directly or indirectly, in the formation, promotion or management of the sponsor or prospective sponsor

Annex C, and has failed to pay it within the time allowed (unless the penalty was withdrawn by the Border and Immigration Agency or cancelled on appeal).

- e. Where the prospective sponsor or another appropriate person is an undischarged bankrupt, or is legally prohibited from becoming a Company Director.

Circumstances in which an application will normally be refused

- 31. An application will normally be refused where the prospective sponsor or another appropriate person, has been:
 - a. convicted of an offence listed in Appendix B. These are offences that undermine the immigration control. (Convictions that are “spent” under the Rehabilitation of Offenders Act 1974 will not be taken into account);
 - b. *dishonest* in any of its previous dealings with the Border and Immigration Agency or the former Immigration and Nationality Directorate. Examples of dishonesty include, but are not limited to:
 - i. Applying for work permits despite neither having, nor being in the process of establishing, an operating presence in the UK;
 - ii. Having had work permit applications refused on the grounds that the applicant’s facilities were insufficient to cope with the increased staff and that there were no plans to expand to take account of that increase.
 - iii. Giving false information in any application to the Border and Immigration Agency, including an application for a work permit.

- 32. Where paragraph 31 applies, we may grant a licence where there are exceptional circumstances, such as where the criminal conviction or dishonesty was wholly attributable to a former employee of the organisation who was dismissed when it came to light. However, if we do exceptionally grant a licence, we are likely to award a B-rating.

Circumstances in which the application may be refused

- 33. A licence may also be refused in the following circumstances. If the licence is granted, we are likely to give the **sponsor** a B-rating.
 - a. Where the prospective sponsor or another appropriate person has a previous record of non-compliance or poor compliance with the requirements of sponsorship, or with the work permits system.
 - b. Where the prospective sponsor or another appropriate person has previously refused or failed to provide evidence as requested to determine compliance with the sponsorship or work permit systems.
 - c. Where information available to the Border and Immigration Agency (which may come from a pre-approval compliance visit or from some other source) suggests that the prospective sponsor does not yet have in place the necessary processes to allow it to comply with the requirements of sponsorship. An example might be where an employer’s internal communications are not good enough for those responsible for notifying us of a migrant’s absences to know who has or has not reported for work.
 - d. Where the prospective sponsor or another appropriate person has previously had a

sponsor licence withdrawn by the Border and Immigration Agency. In these cases, the prospective sponsor will need to demonstrate that the reasons leading to withdrawal no longer apply before it may be granted a fresh licence.

- e. Where the prospective sponsor, or any organisation that the prospective sponsor, or another appropriate person, has been involved with in a similar role has been **removed from the Register of Education and Training Providers** maintained by the Department for Innovation, Universities and Skills (DIUS- formerly the Department for Education and Skills)

34. The exact action we take where one or more of the circumstances in paragraph 33 applies will depend on:
- a. the seriousness of the past conduct (including the conduct that led to any previous withdrawal of a licence or removal from the DIUS register), the time since it took place and any mitigating circumstances;
 - b. where paragraph 33(c) applies, the extent of the shortcomings in the sponsor's processes or procedures, and the degree to which they undermine its ability to comply with its obligations.

Circumstances in which the prospective sponsor will (if there are no other reasons to refuse its application) be granted a licence but awarded a B-rating

35. A B-rating will also be awarded in the following circumstances:
- a. Where the prospective sponsor or another appropriate person has been issued, within a

period of five years ending on the date of application, with a fixed or civil penalty under one of the provisions listed in Appendix C, unless that penalty was withdrawn by the Border and Immigration Agency or cancelled on appeal;

- b. Where the applicant is an existing sponsor applying to renew its licence, and is already B-rated (unless we are satisfied that it has successfully completed its Action Plan).

Circumstances in which the prospective sponsor will (if there are no other reasons to refuse its application) be granted a licence but may be awarded a B-rating

36. Where the prospective sponsor or another appropriate person has a conviction in relation to serious offences in the conduct of their business which calls into question their suitability as a sponsor (such as a conviction under the National Minimum Wage legislation or for benefit fraud). Convictions that are "spent" under the provisions of the Rehabilitation of Offenders Act 1974 will not be taken into account.
37. When paragraph 36 applies, we will take account, among other things, of the seriousness of the offence, the penalty imposed by the Court and, where the offence was due to an individual member of staff, any action taken by the sponsor in respect of that individual.
38. For more information on B-rating, see paragraphs 130-139

Requirements for specific PBS categories

39. Under PBS, the existing 73 routes under which migrants can apply to come to the UK to work or study will be transformed into five

overarching categories, known as “Tiers”, each of which will have a small number of sub categories. Migrants in the part of PBS that caters for highly skilled migrants (known as Tier 1) will not need a sponsor, but all other PBS migrants will.

40. The sponsorship system therefore includes the following requirements, which are specific to particular tiers or sub categories. Sponsors applying for a licence in one of the categories discussed below must meet the specific requirements set out for it, as well as the general requirements listed above. The exceptions to this are **diplomatic missions** or **international organisations** (see paragraphs 62-65).

Skilled workers with a job offer

41. Under PBS, these will fall into the “general” subcategory of Tier 2. In order to gain a licence to employ them, an organisation need not fulfil any additional criteria. It will, however, need to assure itself that it can carry out the duties for this Tier set out at paragraphs 91-92.

Religious workers

42. There are two categories under which religious workers may be able to gain entry under PBS.
43. Those seeking to come on a longer-term basis will be able to apply under **Tier 2**, if they are sponsored by a religious institution, and that institution has been licensed as a sponsor by the Border and Immigration Agency.
44. Visiting religious workers in roles that do not involve preaching will be able to apply under **Tier 5**, provided they do not wish to stay for more than two years. Again, they will need to be sponsored by a religious institution, which must

itself hold a sponsor licence from the Border and Immigration Agency.

45. In order to gain a licence to bring in either category of religious worker, the religious institution must hold a current Faith Body Endorsement from a relevant faith body (i.e. one covering their religion) set up for this purpose. That endorsement will confirm that the sponsor concerned is a bona fide religious institution which is likely to want to bring migrants to the UK as religious workers. The Border and Immigration Agency is currently working with religious groups to finalise the specific requirements that migrants wishing to come here in these categories will need to meet.

Sportspeople

46. Sportspeople coming to establish themselves in the UK (as opposed to those coming to compete in a particular event) can apply under **Tier 2**. They will need to be sponsored by a sports club, which will need a sponsor licence from the Border and Immigration Agency. In order to gain such a licence, the club must hold a current Governing Body Endorsement from the governing body for their sport nominated for this purpose. That endorsement will confirm that the sponsor concerned is a bona fide sports club or other sporting body which is likely to want to bring migrants to the UK as sportspeople.

Intra Company Transfers

47. These will also apply under Tier 2. In order to gain a licence to sponsor them a company would need to show that it has a direct link by common ownership (one entity owns the other, they have a common parent entity or they are part of the same entity) with overseas entities from which it intends to bring migrants to the UK.

Low-skilled workers

48. Low-skilled migrants would be covered by Tier 3. In order to gain a sponsor licence under this Tier, a prospective sponsor would need approval from the Border and Immigration Agency to run a scheme to bring low-skilled workers to the UK. There are no current plans to introduce this Tier.

Students

49. Students will be covered by **Tier 4** of PBS, and will need to be sponsored by an educational institution that has a sponsor licence from the Border and Immigration Agency.

50. Institutions which are subject to the system of reviews undertaken by the following bodies will need to show that they have been inspected or audited by the appropriate one of those bodies:

- Quality Assurance Agency for Higher Education (UK-wide)
- OfSTED (England)
- Her Majesty's Inspectorate of Education (Scotland)
- Estyn (Wales)
- Education and Training Inspectorate (Northern Ireland)
- Independent Schools Inspectorate (ISI)

51. Institutions outside this system will need to show:
- a. that they hold valid accreditation from an accreditation body approved by the Border and Immigration Agency (these are listed at Appendix A); or
 - b. that they have passed an inspection by the Office for Standards in Education (Ofsted).

52. This accreditation also enables Tier 4 sponsors to apply for a licence to sponsor migrants under Tier 2 (General and Intra-Company Transfer categories only) and Tier 5 (Exchange), subject to fulfilling the other criteria for these categories.

53. As well as this, certain **very low risk overseas Higher Education Institutions**, who offer only part of their programmes in the UK, will be exempt from the need to be accredited. This concession extends only to those overseas institutions that offer short-term "study abroad" programmes in their own premises in the UK to students who are enrolled in their home country and who come to the UK for one or two semesters before returning home to complete their degree courses (which need to be equivalent to a UK degree). Such institutions will still need to obtain a licence, by proving:

- a. That they hold overseas accreditation which is confirmed by NARIC (the national agency responsible for providing information and expert opinion on vocational, academic and professional skills and qualifications from over 180 countries worldwide) as offering degree programmes which are equivalent to UK degree level qualifications;
- b. That they only teach part of their programmes in the UK i.e. their students are enrolled on full-time degree programmes at the overseas university and study only part of their overall degree programme in the UK before returning overseas to complete their studies; and
- c. That they have full legal control of the premises they use. Those that offer study abroad programmes on a franchise basis via a third party in the UK will need to ensure that their contractor is accredited in the UK.

Voluntary workers

54. In order to gain a licence as a sponsor of Voluntary Workers (covered by Tier 5 of the PBS) the Employer must (unless based in Northern Ireland) be a registered, excepted or exempt charity, according to the relevant legislation in force in the part of the UK in which it is situated. In Northern Ireland the organisation must have obtained charitable status for tax purposes from HMRC.

Temporary Exchange workers

55. These are also covered by Tier 5. In order to protect against potential abuse of the subcategory and to prevent a plethora of small individual schemes, individual employers and organisations will not be allowed to act as sponsors themselves. This applies even if the employer or organisation is a sponsor under other categories or tiers.

56. Instead there must be an **overarching body** that runs and administers the exchange scheme. The overarching body will be the sponsor and will need to apply for a licence. The scheme and the overarching body administering it must have the support of a UK Government department. The overarching body will issue Certificates of Sponsorship to migrants who meet the criteria of the scheme.

57. Government departments will be guided on the parameters within which such schemes should be developed and their responsibilities in proposing and supporting schemes.

58. In order to demonstrate support of the scheme, the government department must write a letter to the Chief Executive of the Border and Immigration Agency, giving details of the

overarching body that will be running it and attesting to the following points:

- a. The scheme is within the parameters of the exchange category
- b. The scheme contributes towards the delivery of one or more of its public sector agreement targets.
- c. It is satisfied that the overarching body is capable of meeting its sponsor obligations.
- d. If significant numbers of migrants under the exchange scheme break our immigration laws, the supporting government department will be liable for any enforcement costs and accepts that the scheme may be terminated.

59. A copy of this letter must be supplied with the overarching body's application for a licence.

Temporary Creative and Sporting workers

60. These are covered by Tier 5. In order to gain a licence as a sponsor of **creative workers** the prospective sponsor must be operating, or intending to operate, in the creative industries, and must commit to following the good practice guidance produced by the sector for taking account of the needs of the resident labour market in that field. This guidance is currently being produced by representatives of the sector and will be agreed with the Border and Immigration Agency. It is currently intended that the guidance should operate in four specific areas: dance, film and television, theatre and music.

61. In order to gain a licence as a sponsor of **temporary sportspeople** (i.e. those not coming to establish themselves in the UK) the prospective sponsor must be a sporting body, sports club, event organiser or other

organisation operating, or intending to operate, in the sporting sector.

Temporary workers under International agreements

62. These are also covered by Tier 5.
63. In order to gain a licence as a sponsor of **private servants in diplomatic households** (under the Diplomatic Privileges Act 1964, or the International Organisations Act 1968)), the prospective sponsor must demonstrate that it is a diplomatic mission.
64. In order to gain a licence as a sponsor of **Overseas Government Employees (OGEs)** the prospective sponsor must demonstrate that it is either a diplomatic mission or international organisation recognised by the UK Government.
65. In order to gain a licence as a sponsor of **migrants under the General Agreement on Trade and Services (GATS)** or other international treaty, the prospective sponsor must demonstrate that the job or employment involved derives from the terms of the agreement concerned. The Border and Immigration Agency will issue guidance on how this will be shown, at the latest in the Statement of Intent for Tier 5. But in particular where prospective sponsors wish to sponsor migrants to come to the UK to perform a service under a contract with an overseas company, the contract will need to be provided and, where appropriate, the sponsor will need to provide evidence that a fair and open Economic Needs Test has been applied.

Youth Mobility

66. Migrants under the **Youth Mobility** scheme (which is also in Tier 5) will be sponsored by the

governments of their countries. Countries that meet the criteria for inclusion in the scheme may join it if their governments wish to be included, and accept the responsibilities of sponsorship. However, participating Governments will not be given an A or B rating. Where a participating country's nationals are assessed as posing a very low immigration risk, an eligible applicant will be deemed to be sponsored by his or her national government if he or she has a valid national passport. In the case of other participating countries, a certificate of sponsorship will need to be issued on the authority of the national government concerned.

67. Statements of intent for all parts of the PBS that require sponsorship will be issued closer to their launch. These will give more detail of the Tiers themselves, including their specific requirements.

Umbrella Bodies

68. It has been suggested that in certain circumstances groups of prospective sponsors, for example employers, could nominate an umbrella body, or indeed one of their number, to act as sponsor. The Border and Immigration Agency is not able to permit this: for an employee the sponsor must be the employer because the employer is best placed to fulfil the sponsorship duties and because there would otherwise be scope for abuse. The exception to this is in Tier 5. In certain circumstances there is no clear employee/employer relationship and the best placed organisation to act as sponsor is a governing body or national umbrella body. However in order to gain a licence to act as sponsor in these circumstances the organisation will need to satisfy the Agency that it has the necessary communications systems in place so that it can fully meet the sponsorship duties, as

well as meeting the licensing requirements for the relevant category(ies) of Tier 5.

Informing the prospective sponsor of the result of its application

69. We will write to the applicant stating:
 - a. Whether we have granted or refused the licence;
 - b. If we have granted the licence, whether we have allocated an A or B rating to the sponsor
 - c. If we have refused the licence or given a B-rating, the reasons for our decision.
70. New sponsors will also receive a Compliance Pack. This will, among other things, set out their duties as licensees, explain how to operate the Sponsor Management System, and explain the standards of service they can expect from the Border and Immigration Agency.

Reapplying after having been refused

71. Although there is no right of appeal against refusal of an application for a licence, refused applicants may reapply at any time. However, they will need to ensure that the reasons for their earlier refusal no longer apply, or they are likely to be refused again. For example, if an applicant was refused because a relevant member of staff has a conviction for immigration offences, a future application is unlikely to succeed if the offending officer is still in place.

How a successful applicant will be licensed

Registration as a single entity or as a number of branches

72. Sponsors who have a number of different offices, branches, locations or campuses (referred to as “branches” in the rest of this section) will be able to choose between seeking a licence as a single entity and having each of their branches seek separate licences.
73. If a number of branches of the same organisation are licensed, and one of those branches loses its licence or becomes a B-rated sponsor, we may wish to investigate other branches of the organisation.
74. If the sponsor is licensed as a single entity and is struck off or downgraded to a B rating, then the action we have taken will apply to all the sponsor’s branches. If we have struck the sponsor off, then none of its branches will be able to sponsor migrants from outside the EEA. We will take our previous action, and the reasons for it, into account should any of the sponsor’s branches then apply to register separately as sponsors.

Franchises

75. If an organisation has a number of franchises that are under its control, then, as with branches, it will be able to decide whether to apply for a licence itself or have each one licensed separately.
76. However, if the franchisees are separate businesses not under the control of the parent company, they will need to be licensed as sponsors themselves.

SECTION C: APPLYING FOR AND ALLOCATING CERTIFICATES OF SPONSORSHIP

77. Once licensed, a sponsor will be entitled to apply for certificates of sponsorship.
78. **In doing this, the sponsor will be held fully responsible for the actions of any employee who purports to act on its behalf. Any non-compliance with the Rules about issuing or allocating certificates may result in the sponsor's having its licence withdrawn or being downgraded to a B-rating.**

The number of certificates that may be issued

79. When applying for a licence, the sponsor will be asked to give us an indication of the number of certificates of sponsorship it expects to issue per year, in each part of PBS for which it has a licence, and both to migrants coming to the UK and those seeking extensions while here. This is to help the Border and Immigration Agency to manage immigration control on behalf of the UK. The sponsor may be asked to justify its estimates.
80. The Border and Immigration Agency will be able to review sponsors' performance after a certain number of certificates has been issued. These review points can be soft (allowing the sponsor to continue issuing certificates) or hard (preventing further certificates being issued without the Border and Immigration Agency's approval). These review points can be changed at any time and set at any level, so for a sponsor where the Agency has strong concerns a hard review point could be set after one certificate has been issued.

Use of representatives

81. A sponsor may elect to use a representative (e.g. an immigration adviser or firm of solicitors) to handle its affairs under PBS. If it does this, it must inform the Border and Immigration Agency. The sponsor will need to check the identity of the representative and ensure that it is suitable to undertake the activity required.
82. Any representative who advises on, or assists with, the issue of certificates of sponsorship will need either to be registered with the Immigration Services Commissioner or exempt from the requirement to register, or otherwise compliant with Section 94 of the Immigration and Asylum Act 1999.

The Certificate of Sponsorship itself

83. A Certificate of Sponsorship is a virtual document; it is not an actual certificate or paper document like a work permit. It consists of a unique reference number which the sponsor issues to the migrant and which makes the migrant eligible to apply for entry clearance or leave to remain under PBS.
84. A certificate of sponsorship issued to students will be known as the "Confirmation of Acceptance of Studies" to avoid confusion within the education sector and among prospective students.

85. In issuing a Certificate of Sponsorship, the sponsor will need to complete the migrant and sponsorship details on the Certificate of Sponsorship application form as well as (where appropriate) details such as how the job either satisfies the Resident Labour Market Test or is in a shortage occupation. A Certificate of Sponsorship number will then be issued and it is for the sponsor to inform the migrant of this, and for the migrant to apply for entry clearance or leave to remain.
86. A Certificate of Sponsorship can be cancelled at any time by the Border and Immigration Agency if we find out that the sponsor was not entitled to issue it, including if it was issued through misrepresentation or fraud. Once a certificate has been cancelled, any application for entry clearance or leave to remain relying on that certificate will automatically be refused.

SECTION D: DUTIES OF A SPONSOR

87. The system of sponsorship requires those who most directly benefit from migration – those who are sponsoring migrants – to play their part in ensuring that the system is not abused. As a result, all licensed sponsors will be required to fulfil certain duties. Some of these duties are **generic** – i.e. they will apply to all sponsors. Others are specific to sponsors who are licensed under certain parts of PBS.

Generic duties

88. These are as follows:

Record keeping duties

- a. All sponsors must keep the following records or documents, and make them available to officials of the Border and Immigration Agency on request:
 - i. A photocopy or electronic copy of each sponsored migrant's passport or UK immigration status document (and, in time, his or her ID card), showing evidence of his or her entitlement to work or study. For employers this is in line with their responsibilities under regulations issued under section 15 of the Immigration Asylum and Nationality Act 2006.
 - ii. Each sponsored migrant's contact details (address, telephone number, mobile telephone number). These details must be updated as necessary and made available to officials of the Border and Immigration Agency on request;
- b. All sponsors must also co-operate with the Border and Immigration Agency's sponsor management and compliance procedures by providing such documents relating to

sponsored migrants as we consider relevant. The Border and Immigration Agency might, for example, ask for details of the sponsor's recruitment practices so that we can ensure that the Resident Labour Market Test is being applied where appropriate;

- c. From 2008 we will be introducing **ID cards** for foreign nationals. This will be a new type of immigration status document, which will contain details of the holder's immigration status, together with their fingerprints. Where the migrant has an ID card, the sponsor will be required to keep a copy of it. ID cards will be legally defined as Biometric Immigration Documents when the UK Borders Act 2007 comes into force.

Reporting duties

- d. all sponsors must report the following information or events to the Border and Immigration Agency, within any time limit specified. Information about migrants' non attendance, non-compliance or disappearance will be used to inform enforcement action against them:
 - i. If a sponsored migrant does not turn up for his or her first day of work, or does not enrol on his or her course at the expected time. The report must be provided within 10 working days. If the migrant has given a reason for his or her non attendance/non-enrolment (e.g. missed flight), the sponsor must also tell us that;
 - ii. If a sponsored migrant is absent for work or study for more than 10 working days, without the sponsor's reasonably granted permission. In this case, the report must be provided within 10 working days.

- iii. If a sponsored migrant discontinues his or her studies, or if the migrant's contract of employment or registration is terminated (including where the migrant resigns or is dismissed). Such a report must be given within 10 working days and should include the name and address of any new employer or institution that the migrant has joined, if the sponsor knows it.
 - iv. If the sponsor stops sponsoring the migrant for any other reason (e.g. if the migrant moves into an immigration category, such as the highly skilled tier of PBS, that does not require a sponsor, but continues working for the sponsor);
 - v. If there are any significant change in the migrants' circumstances, for example a change of job or salary (but not job title or annual pay rise) or the duration of a course of study.
 - vi. Any suspicions it may have that a migrant is breaching the conditions of his or her leave.
 - vii. If there are any significant changes in the sponsor's circumstances – for example if the sponsor ceases trading or becomes insolvent, substantially changes the nature of its business, is involved in a merger or is taken over.
 - viii. Details of any third party or intermediary, whether in the UK or abroad, that has assisted it in the recruitment of employees or students.
 - e. The sponsor must also give the police any information it may have that suggests that the migrant may be engaging in terrorism or other criminal activity
- Complying with the law**
- f. To ensure that they are complying with our immigration laws, sponsors must also fulfil the following obligations:
 - i. To ensure that a migrant who is coming to work is legally entitled to do the job in question, and has the appropriate registration, or professional accreditation, where this is legally required. For example, if the migrant is coming to work as a doctor, the sponsor will need to ensure that he or she has the correct registration to entitle him or her to practice as such in the UK. The sponsor must keep a copy of any appropriate registration document or certificate, and supply it to the Border and Immigration Agency on request
 - ii. Not to employ a migrant whose immigration status (or lack of such status) does not allow him or her to undertake the work in question, and to cease employing any migrant who ceases, for any reason, to be entitled to undertake the work.
 - iii. Only to issue Certificates of Sponsorship to migrants who, to the best of the sponsor's knowledge and belief, meet the requirements of the tier or category of PBS under which the certificate is issued, and are likely to comply with the conditions of their leave.

Co-operating with us

- g. In order to allow the Border and Immigration Agency properly to manage the sponsorship system, and the immigration system of which it is a part, all sponsors must also comply with the following duties:
 - i. To allow the Border and Immigration Agency's staff (including Compliance Officers and Account Managers) access to any of its premises on demand. Visits may be either prearranged or unannounced;
 - ii. To adhere to any action plan set by the Border and Immigration Agency;
 - iii. To seek to minimise the risk of immigration abuse by complying with any good practice guidance that the Border and Immigration Agency or any sector body may produce for sponsors in particular tiers or sectors.

Other duties

89. An Action Plan for B-rated sponsors may lay down additional duties.

Duties specific to sponsors under particular parts of the PBS

90. The above duties apply to all sponsors across the PBS. Those set out below apply only to certain categories. These duties reflect the current policy on qualifying criteria and other matters. These issues will be finalised in advance of introduction of the relevant parts of the PBS.

Skilled workers

91. A certificate of sponsorship may only be issued under the part of PBS applying to skilled

workers (Tier 2) if the sponsor is satisfied that the migrant intends and is able to do a specific skilled job, of at least NVQ3 skill level. The sponsor must indicate when applying for the Certificate of Sponsorship either:

- that the sponsor has carried out the Resident Labour Market Test (RLMT). Full details of the RLMT will be published in due course, but it will include advertising the job in certain specified media at an appropriate salary for the UK and confirming that there were no suitable EEA applicants. For migrant workers in the arts and entertainments field it will also include compliance with any code of practice on protection of the domestic labour market that may be drawn up by the industry in question and approved by the Border and Immigration Agency; or
- the job concerned appears on the list of **shortage occupations** published by the Border and Immigration Agency or (if the job is in Scotland) on the Scotland-only list; or
- the salary for the job concerned is at least £40,000 per year; or
- the migrant being sponsored is the subject of an Intra-Company Transfer. Such a migrant will need to have been working overseas for the sponsoring company for at least the last 6 months, and while in the UK will earn a salary or other remunerative package (including specific permitted allowances) appropriate for that job in the UK; or
- the migrant being sponsored is a religious worker. The sponsor must confirm that the migrant has been given a Faith Body Endorsement by a faith body designated or established for this purpose, stating that the

person meets the pre-entry requirement for that faith; or

- the migrant is a sportsperson seeking to establish him or herself in the UK. The sponsor must confirm that the migrant has a Governing Body Endorsement from the governing body of their sport designated for this purpose, that he or she is internationally established at the highest level, and will make a significant contribution to the development of his or her sport at the highest level in the UK.

92. A proposal currently under consideration is for sponsors to inform the Department of Work and Pensions of the grant of entry clearance or leave to remain to the migrant, in order to initiate the issue of a National Insurance number (NINO).

Low Skilled workers

93. This would be covered by Tier 3 of the PBS. A sponsor may only issue a certificate of sponsorship in this part of PBS if it has signed up to the conditions of the low-skilled employment scheme it has agreed with the Border and Immigration Agency. There are no plans to introduce any such schemes at this time.

Students

94. A certificate of sponsorship (which, for students, will be known as a “confirmation of acceptance of studies”) may only be issued under Tier 4 if the sponsor is satisfied that the migrant both intends and is able to follow the course of study concerned.

Temporary categories

95. *These are all covered by Tier 5 of the PBS.*

96. **Creative and sporting:** A Certificate of Sponsorship may only be issued in this tier category if the migrant:

- a. Is seeking entry to the UK to perform, compete, or otherwise take part in a specific event or a series of events.
- b. Is not intending to establish himself in business in the UK
- c. Poses no threat to the domestic labour force (having regard, for a creative worker, to any code of practice on protection of the domestic labour market that may be drawn up by the industry in question and approved by the Border and Immigration Agency).

97. **Voluntary:** A Certificate of Sponsorship may only be issued in this tier category if the migrant:

- a. Is intending to undertake voluntary fieldwork directly related to the purpose of the sponsor.
- b. Will not be paid or otherwise remunerated for their work; and
- c. Will not take up a permanent position.

98. **Religious:** A Certificate of Sponsorship may only be issued in this tier category if the migrant:

- a. Has a pre-entry qualification, endorsed by the appropriate UK faith body, demonstrating that he or she is an established religious worker overseas.

- b. Does not intend to take employment except as a visiting religious worker or a religious worker in a non-pastoral role.
99. **Exchange:** A Certificate of Sponsorship may only be issued in this tier category if the migrant:
- Is seeking entry to work or train temporarily in the UK through an approved exchange scheme.
 - Will not take employment other than as part of the scheme.
 - Is not intending to establish himself or herself in business in the UK.
 - Meets the requirements of the individual exchange scheme.
100. **International Agreement:** A Certificate of Sponsorship may only be issued in this tier category if the migrant:
- Works for an employer or organisation in a country that is a member of the World Trade Organisation, has a similar bilateral agreement with the UK, or is a member of the EU.
 - Will be engaged in work in accordance with the terms and conditions of the GATS, the relevant bilateral agreement, or the relevant EU directive or ruling.
 - Works for the employer who was awarded any relevant contract.
101. **Overseas Government Employee:** A Certificate of Sponsorship may only be issued in this tier category if the migrant is an employee of the overseas Government or international organisation concerned, and will not take up any other form of employment.
102. **Private servants in diplomatic households:** A Certificate of Sponsorship may only be issued in this tier category if the migrant:
- Is aged 18 or over
 - Will be employed as a private servant in the household of a member of staff of a diplomatic or consular mission who enjoys diplomatic privileges and immunity within the meaning of the Vienna Convention on Diplomatic Relations.
 - Intends to work full-time in domestic employment.
 - Will not take up any other form of employment other than as a private servant in the specified diplomatic household.
103. **Youth Mobility:** where the migrant is from a very low risk country, and we therefore allow his or her national passport to serve as a certificate of sponsorship (see paragraph 66) there will be no specific duties on the overseas government concerned. Where a national government is licensed to issue certificates, the sponsor government is vouching that the migrants concerned are nationals of the country concerned, are aged between 18 and 30 inclusive, and will comply with the terms of the Youth Mobility Scheme.
- Compliance with duties**
104. If the sponsor fails to comply with any of its duties, it may be downgraded to a B rating, or its licence may be withdrawn. See Section E (below) for more details.

Concerns/queries about duties

105. Sponsors should raise any queries they have about their duties as sponsors with the Border and Immigration Agency. They will be supported by the Agency's sector-based teams of account managers who will provide advice and act as a general point of contact. Sponsors who are employers may wish to be aware of the Employer Checking Service offered by the Border and Immigration Agency which is being developed to help clarify whether a migrant is permitted to work in the UK. Information on the service can be found on the Border and Immigration Agency website at <http://www.bia.homeoffice.gov.uk/employingmigrants>.

SECTION E: ENFORCING COMPLIANCE WITH THE SPONSOR'S DUTIES

106. We know that the vast majority of those who employ or teach overseas workers or students are honest and will comply with their duties. However, the Border and Immigration Agency has a duty to ensure that the minority who do not comply are appropriately dealt with.
107. We have therefore introduced the following procedures to ensure that sponsors' duties are enforced, and that dishonest or incompetent sponsors are identified early, have their licence cancelled and are punished. We will, in addition to any enforcement action we take in the context of the sponsorship regime, pursue any sponsors found to be in breach of the new civil penalties regime. Sponsor management staff will be trained and equipped to issue civil penalty notices and will refer more serious offences for prosecution.

Circumstances in which a sponsor will have its licence withdrawn

108. A sponsor will lose its licence if:
- a. It ceases to trade or operate, whether as a result of insolvency or for any other reason; or
 - b. It ceases to be accredited or registered with any body that it needs to be accredited/registered with in order to obtain a licence (see the registration criteria for specific categories in paragraphs 39-66 for further details). For example, a college with a licence to bring in students under the PBS will lose that licence if it loses its accreditation with the appropriate accrediting body.

Circumstances in which a sponsor will normally have its licence withdrawn

109. A sponsor will normally lose its licence if:
- a. the sponsor, or another appropriate person, is convicted of one of the offences listed in Appendix B;
 - b. the sponsor, or another appropriate person, is dishonest in any of its dealings with the Border and Immigration Agency. This includes, but is not limited to:
 - i. Making false or dishonest statements, or failing to disclose any material fact, when applying for a sponsor licence;
 - ii. Any false or dishonest statement, or failing to disclose a material fact, when applying for a Certificate of Sponsorship (e.g. falsely claims to have complied with the Resident Labour Market Test where this applies)
 - c. the sponsor employs a migrant in a job that would not satisfy the qualification requirements for the issue of a Certificate of Sponsorship.
 - d. in a case in the skilled worker category (Tier 2), the sponsor fails to pay at least the salary (and/or allowances or benefits) specified on the application for the Certificate of Sponsorship made on the Sponsor Management System.
 - e. the sponsor, or another appropriate person, becomes an undischarged bankrupt, or is legally prohibited from acting as a Company Director.

- f. If the sponsor, or another appropriate person, has been issued with a civil penalty under one of the provisions in Annex C, and has failed to pay it within the time allowed (unless the penalty was withdrawn by the Border and Immigration Agency or cancelled on appeal).
 - g. The sponsor fails to comply with an Action Plan set by the Border and Immigration Agency (see below under B-rating)
110. We cannot define precisely the exceptional circumstances that may lead us not to revoke a sponsor's licence when one of the above circumstances applies. However, these are serious matters, and we would be looking for something that showed that the sponsor was not morally responsible for them. An example might be where dishonesty was wholly attributable to the actions of an employee of the sponsor who was dismissed when it came to light. Another example might be a failure in the sponsor's payroll system, leading to the payment of an incorrect salary to the migrant, provided this was rectified as soon as possible,
111. If one of the above circumstances applies and we do not revoke the licence, we are likely to downgrade the sponsor to a B-rating.

Circumstances in which a sponsor may have its licence withdrawn

112. A sponsor may have its licence withdrawn in the following circumstances:
- a. If it fails to comply with any of the duties set out in Section C that apply to it.
 - b. If, as a result of information available to our compliance officers, we are not satisfied that the sponsor has in place the processes or procedures it needs in order fully to comply with the requirements of sponsorship.
 - c. If migrants that it has sponsored have been found not to have complied with their conditions of leave and the sponsor has not been following good practice guidance set out by the Border and Immigration Agency or a sector body.
113. If we decide not to revoke the sponsor's licence where one or more of the circumstances in paragraph 112 applies, we may downgrade the sponsor to a B rating.
114. When deciding what action to take against a sponsor to which one or more of the circumstances in paragraph 112 applies, we will take all the facts of the case into account. No two cases will be alike, and so we cannot give an exhaustive list of the circumstances in which we will withdraw a licence, downgrade it, give a warning or take no action.
115. Nevertheless, we will have regard to the following when deciding what action to take:
- a. The seriousness of the conduct concerned and the harm it has done. Breaches that have led to migrants absconding will be treated as serious.
 - b. Whether the breach is part of a consistent or sustained record of non or poor compliance, or is a one-off event.
 - c. Any action taken by the sponsor to mitigate the consequences of its conduct- for example, alerting us promptly if migrants go missing. Where the breach is caused by the actions of an individual member of staff, we will take account of any internal action that the organisation has taken in respect of that

person (e.g. dismissal, relocation to another area of work or retraining, as appropriate). However, if we are satisfied that a sponsor has been complicit in or has recklessly disregarded any infringements by its staff, that will be regarded more seriously.

Circumstances in which an A-rated sponsor will be downgraded to a B rating, and a B-rated sponsor will lose its licence

116. If it is issued with a fixed or civil penalty in respect of a matter listed in Appendix C, unless the penalty was withdrawn by the Border and Immigration Agency or cancelled on appeal.

Circumstances in which an A-rated sponsor may be downgraded to a B-rating, and a B-rated sponsor may lose its licence

117. Where the sponsor, or another appropriate person, has an extant (ie not covered by the provisions of the Rehabilitation of Offenders Act) conviction in relation to serious offences in the conduct of their business which calls into question their suitability as a sponsor (such as a conviction under the National Minimum Wage legislation or for benefit fraud).
118. When paragraph 117 applies, we will take account, among other things, of the seriousness of the offence, the penalty imposed by the Court and, where the offence was due to an individual member of staff, any action taken by the sponsor in respect of that individual.

Actions of representatives

119. When we are considering taking action against a sponsor under this section, any acts performed by a representative on the sponsor's behalf will be treated as the acts of the sponsor. It is therefore vital that sponsors who engage agents

to help them recruit and bring in migrants engage only those who are reputable, honest and competent. All representatives must be either registered with the Immigration Services Commissioner, exempt from registration or otherwise comply with section 94 of the Immigration and Asylum Act 1999.

Procedure that the Border and Immigration Agency will follow when it is considering downgrading a sponsor or withdrawing its licence

120. We will write to the sponsor explaining why we are minded to take action, and the action that we are considering taking.
121. The sponsor will have 28 days to respond in writing to our letter. We may extend this period at the sponsor's request where we are satisfied that there are exceptional circumstances. The sponsor may make any written representations it sees fit, including submitting evidence. However, no oral hearing will take place.
122. Once the sponsor's representations have been received (or, if none are received, after the time limit has expired) we will decide within 14 days what action to take and will inform the sponsor in writing. Any decision to downgrade the sponsor, or withdraw its licence, will take effect from the date of our letter informing the sponsor of our decision.
123. Where we are considering action against a sponsor that could lead to withdrawal of its licence, we will suspend consideration of any application for Entry Clearance or Leave to Remain made by migrants to whom it has issued certificates of sponsorship, until we have made a decision on the sponsor's status.

Suspending a sponsor

124. Where we have reason to believe that a sponsor is engaged in a serious breach of its obligations that poses a threat to immigration control (for example, allocating certificates of sponsorship to migrants who do not qualify to come to the UK), we may **suspend** it while we follow the procedure outlined in paragraphs 120-123. The sponsor will not be able to apply for or allocate any certificates of sponsorship while it is suspended, but will still need to comply with all the duties of a sponsor.
125. Any suspension will be lifted if we decide not to withdraw a sponsor's licence.

Treatment of migrants when we withdraw a sponsor's licence

126. When a sponsor loses its licence, we will vary the leave of the migrants it was sponsoring in order to:
- Prevent them continuing to work for the sponsor; and
 - Cut the duration of the leave to either 28 or 60 days.
127. In deciding whether to cut the migrants' leave to either 28 or 60 days, the key issue will be whether the migrant was **complicit** in any dishonest actions that led to the sponsor losing his licence (for example, if the migrant agreed that the sponsor would arrange a non-existent job for him or her so he or she could come to the UK). If he or she was, then we will cut the leave to 28 days. At the end of that period, the migrant will need to leave the UK or face removal. Any application to extend that leave when it expires is likely to be refused.

128. If the migrant was not complicit in dishonesty by the sponsor, we will reduce the leave to 60 days in order to give the migrant a reasonable opportunity to find another sponsor. If he or she cannot find a new sponsor in that time, the migrant will need to leave the UK.
129. We will take action against any migrant who remains in the UK after his or her leave has expired. This may result in the migrant's being detained and forcibly removed from the country, and in the refusal of any future applications to come here that he or she may make.

B-rated sponsors

130. All sponsors will be rated A or B. Sponsors who have not fully complied with their duties, but whose behaviour is not considered serious enough for them to lose their licence, will be rated B. A B-rating will also usually be awarded to sponsors who have rejoined the Register after having previously been removed from it.
131. A sponsor's rating will appear on the public version of the register of licensed sponsors. Prospective employees or students of the sponsor will therefore be aware of its rating, and will be able to take it into account in deciding which sponsor to apply to.

Sponsorship action plans

132. A B-rating is a **transitional rating**. This means that a B-rated sponsor will be expected, within a relatively short period, to have improved its performance sufficiently to be upgraded to an A-rating. If it does not, it will risk having its licence withdrawn.
133. In order to help the sponsor, an **action plan** will be drawn up, listing the steps that the sponsor needs to take in order fully to comply with its

duties and obtain an A-rating. This might include, for example, making specific improvements to its record keeping, improving its control over the staff employed to issue certificates of sponsorship or improving communication between different branches of the business so it knows when a migrant has not turned up for work.

134. The plan will be drawn up jointly by the Border and Immigration Agency and the sponsor. However, the Border and Immigration Agency will have the final say over its contents and may set an action plan even if the sponsor does not agree.
135. Any failure to comply with an action plan may lead to withdrawal of the sponsor's licence.
136. At the end of the period covered by the action plan (which will generally be about three months, but may be longer or shorter in appropriate circumstances), we will decide whether the sponsor should be upgraded to an A-rating. If this is not appropriate, then we will normally withdraw the sponsor's licence, though in exceptional circumstances, where significant progress has been made, we may decide to keep the sponsor on a B-rating and have a new action plan drawn up.

Other consequences of a B-rating

137. B-rated sponsors will not be able to issue Certificates of Sponsorship to students for a course which involves a work placement. This is because such a placement will allow students to work full time in term time, in certain circumstances, which other students will not be able to do. It is therefore important that only sponsors who are fully complying with their duties (i.e. A-rated sponsors) can issue certificates that have this effect.

138. Low skilled and temporary migrant workers sponsored by B-rated sponsors (in Tiers 3 and 5 of the PBS) will need to provide evidence that they personally possess enough money to meet the maintenance requirement. A-rated sponsors, on the other hand, will be able to certify that such migrants will not claim public funds in order for them to meet the maintenance test.

139. B-rated sponsors are likely to be subject to more frequent and exacting inspections by the Border and Immigration Agency. We will be guided by our assessment of the potential risk posed by sponsors to the immigration control in deciding what monitoring arrangements, including limits on the numbers of certificates of sponsorship they may issue, to impose.

Illegal working

140. The Border and Immigration Agency takes the issue of migrants working here when they have no permission to do so very seriously.

141. There is a hierarchy of penalties set out in the Government's action plan and consultation on new measures for preventing illegal working and sponsors found to be in breach of their sponsorship duties may receive an **educational visit to their premises** to support their compliance with the law. Alternatively, they may face any of the following penalties:

- **Required action plan;** listing the steps that a B-rated sponsor needs to take in order fully to comply with its duties and obtain an A-rating.
- **Written warning for employing an illegal worker;** followed by close attention from Border and Immigration Agency enforcement and compliance teams.

- **Down-graded on the PBS sponsorship register.** A 'B' rating will be publicised, including to prospective migrants, and will entail a detailed action plan of measures which an employer will have to satisfy to regain an 'A' rating.
 - **Licence cancelled and removed from the PBS sponsorship register;** meaning that an employer is unable to bring any migrant worker to the UK.
 - **Served with a civil penalty;** if found to be employing an illegal migrant worker, through negligent recruitment practices, an employer could be served with a civil penalty for each illegal worker found under section 15 of the Immigration, Asylum and Nationality Act 2006. The proposed sliding scale allows for heavier penalties for repeat offenders.
 - **Prosecuted for the procuring/use of fraudulent identity documents;** an employer could be imprisoned for up to two years and/or receive an unlimited fine under section 25 of the Identity Cards Act 2006.
 - **Prosecuted for knowingly employing an illegal migrant worker;** under section 21 of the Immigration, Asylum and Nationality Act 2006 employers could be imprisoned for up to two years and/or receive an unlimited fine.
 - **Disbarred as a company director/officer as a result of prosecution;** under section 2 of the Company Directors Disqualification Act 1986, employers convicted of knowingly employing an illegal migrant worker could be disqualified from forming or managing a company.
 - **Prosecuted for facilitation or trafficking;** under section 25 of the Immigration Act 1971, as amended by section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004, employers could be imprisoned for up to 14 years and/or receive an unlimited fine.
142. Under the Immigration, Asylum and Nationality Act 2006, employers who are found to be knowingly employing illegal migrant workers will face a tough new criminal offence, which attracts an unlimited fine and/or a maximum of two years imprisonment. A system of civil penalties will be introduced for those employers who employ illegal migrant workers as a result of negligent, or less than diligent, recruitment and employment practices. Employers will be able to establish an excuse from liability for a civil penalty by carrying out specified document checks at the point of recruitment. The 2006 Act also provides for subsequent document checks, to be made by employers at specified intervals, for those employees who have limited leave to enter or remain in the United Kingdom.
143. Parliament is introducing new powers in the UK Borders Act 2007 which will require foreign nationals subject to immigration control, who are in the UK for over six months, to apply for an ID card (known in legislation as a Biometric Immigration Document) and register their biometric data and biographical information. An ID card will confirm a person's immigration status and entitlement to work and/or public services and benefits in the UK, thereby, for the first time, securely linking that person to a single identity.
144. The new ID cards will replace the existing residence permits and other UK immigration status documents which, hitherto, have been subject to fraud. This will make it easier for the Border and Immigration Agency, and also

employers and public service providers, to confirm a person's immigration status and eligibility to entitlements. The introduction of ID cards should help reduce illegal working, fraudulent access to public services and benefits and identity fraud.

145. Sponsorship compliance officers will be fully trained in identifying and investigating matters that could lead to action under the civil penalties legislation. Where they find evidence of a sponsor employing a migrant worker without the correct documentation, they may issue a civil penalty notice or refer the employer for prosecution. This would be **in addition to** any decision to remove the employer from the PBS register of licensed sponsors, or downgrade it to a B-rating.
146. Where a sponsor which had been found to be in breach of its sponsorship duties, or to have committed offences under civil penalties legislation is also regulated by the Gangmasters Licensing Authority (GLA), or by another Government body, we will inform that body so that it can consider appropriate action. The Government's response to any abuse of the immigration system will be seamless, thorough and proportionate.

SECTION F: RENEWING OR SURRENDERING A LICENCE

Renewing a licence

147. A licence will last for **four years**, unless it is withdrawn by the Border and Immigration Agency or surrendered by the sponsor before then. If a sponsor's licence expires at the end of this period, and is not renewed, then the organisation will lose the right to issue certificates of sponsorship, and will not be able to continue acting as a sponsor.
148. It is therefore important that sponsors apply to renew their licence before it expires. The Border and Immigration Agency will remind them of the need to renew in advance of the expiry of their licence, but it is the sponsor's responsibility to renew. Late renewal applications will not be accepted – instead, the sponsor will need to re-apply for a licence.
149. If a sponsor has sponsored migrants working for or studying with it, then it will need to renew its licence for as long as it wishes to continue employing them or having them as students. This is so **even if it does not propose to sponsor any more migrants**.
150. We require sponsors to renew their licence periodically in order to satisfy ourselves that they are still operating and still wish to be sponsors. Applications for renewal will be dealt with on the same principles that apply to applications for a licence at the time the application for renewal is made. The sponsor will not generally need to provide again the documents it submitted when initially applying for a licence. However, it will normally need to provide its previous year's accounts (where relevant) to show that it is still operating lawfully in the UK, and we may ask for other documents if the circumstances require it.

151. Provided the sponsor applies to renew before its licence has expired, it will be able to continue acting as a sponsor (e.g. issuing certificates of sponsorship and retaining current migrants) until we make a decision on its renewal application.

Surrendering a licence

152. If a licence holder no longer wishes to sponsor migrants, and no sponsored migrants are currently working for or studying with it, it may **surrender** its licence by writing to the Border and Immigration Agency. The organisation will then be removed from the Register of Sponsors, but may apply for a new licence at any time.

SECTION G: TAKEOVERS/TRANSFER OF EMPLOYMENT

153. If a business (or part of a business) at which sponsored migrants work or study is transferred from one company or organisation to another, along with its employees or students, the new owner **will need a sponsor's licence** when it takes over. This applies for example when the assets of a company are bought and the employment of its staff transfer under TUPE (the Transfer of Undertakings (Protection of Employment) Regulations 2006).
154. If the new owner who does not already have a licence does not apply for one within 28 days of taking over the business, we are likely to curtail the leave of the sponsored migrants, as they will not be working for or studying with a registered sponsor.
155. If a licensed sponsor takes over a business, and that business employs or teaches sponsored migrants from outside the EEA, then the new sponsor will take over the former owner of the business's responsibility for those migrants.
156. The new owner of the business will need to inform us, using the Change of Circumstances form on the Sponsor Management System, that it is now responsible for the migrants whose place of work or study it has taken over. If this does not happen, then the migrants will not have a sponsor and we may curtail their permission to be here and remove them from the country.

SECTION H: COMPLAINTS

157. Any sponsor who is dissatisfied with any aspect of the Border and Immigration Agency's service can make use of our **complaints procedure**. For more information about this, please go to www.bia.homeoffice.gov.uk/contactus/complaints

SECTION I: AMENDMENTS TO THE SPONSORSHIP POLICY

158. We will publish a full document setting out the rules that will govern the Sponsorship System on the Border and Immigration Agency's website. We may amend that document at any time, so sponsors and other interested parties should check the website regularly for the most up-to-date version.
159. Where possible, we will consult sponsors through our established stakeholder taskforces before making any changes. However, we may occasionally need to amend the rules at short notice to deal with situations that have arisen suddenly, which means that we may not be able to consult in those cases.

SECTION J: COMMENTS ON THIS DOCUMENT

160. This is not a consultation document. It is aimed at ensuring that those affected by the changes set out above are able to prepare for them in good time. We consulted fully leading up to the publication of the Command Paper “A Points Based System: Making Migration work for Britain” in March 2006. And we have engaged affected stakeholders closely in the production of this document. But if you have comments on it, especially on the practical application of any elements of these proposals, you may send them to sponsorshipsoi@homeoffice.gsi.gov.uk.

Or by post to:

Sponsorship Statement of Intent
C/o 11th Floor
Apollo House
36 Wellesley Road
Croydon CR9 3RR

APPENDIX A: EVIDENCE TO BE REQUIRED FROM PROSPECTIVE SPONSORS (SEE PARAGRAPH 30)

Type of Organisation	
Start up Companies	<p>Where the prospective sponsor is a business that has been trading or operating in the UK for less than 18 months at the time of its application, all of the following:</p> <ul style="list-style-type: none"> • Evidence demonstrating that the company has a current, corporate bank account with a bank registered by the Financial Services Authority in the UK; • A letter from that bank setting out the dealings it had had with the company, including the nature and duration of its dealings; • Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) This option does not apply to sponsors based in Northern Ireland. <p>In addition the company should provide any of the following pieces of evidence it is able to provide:</p> <ul style="list-style-type: none"> • Company's VAT registration number and certificate of VAT registration. • Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number. • Registration with a Governing Body – If a company or partnership or sole trader needs to be registered under UK legislation in order to operate legally – they should provide evidence of the registration.
Public Limited Companies:	<p>London Stock Exchange Number Verified through the London Stock Exchange Website, either through the Main Market or AIM http://www.londonstockexchange.com – As the checks performed by the Stock Exchange are very stringent before listing and ongoing after listing, we will not have to do any further checks – the procedures followed for Listing can be found both in the AIM Rules Booklet for AIM markets and A Practical Guide to Listing Booklet for the Main Markets.</p>
	<p>For Overseas Companies Listed on the London Stock Exchange (LSE) under the International companies listing, they should provide the LSE number, as they have to follow the same procedures for listing their company on the London Stock Exchange, and one other piece of documentation from the Level 1 List to prove trading presence in the UK.</p>
	<p>For companies listed on the international stock exchanges which are approved by the FSA http://www.fsa.gov.uk/register/exchanges.do – it is sufficient for these companies to provide us with proof of listing from one of these exchanges along with proof of trading presence in the UK.</p>

Type of Organisation	
	Where the organisation's business includes the running of one or more care homes, its CSCI Certificate – clearly showing the ratings received from the council
	Where the organisation's business includes the running of one or more catering establishments, the A3 (Restaurants/Café) A4 (Pubs/Bars)/A5 (Hot Food/ Takeaways) Planning Certificate Issued by a local authority.
	Plus, in all cases where the prospective sponsor is a plc, at least <u>one</u> of the following:
	Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) This option does not apply to sponsors based in Northern Ireland.
	Organisation's latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)
	Latest annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Current Financial Report or Audited Annual Report.
	Company's VAT registration number and certificate of VAT registration. (If turnover in excess of £64,000)
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance, or for relevant sponsors of temporary workers that they are registered with the Foreign Entertainers Unit of HMRC in respect of self-employed entertainers. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Latest Notice to file a Company Tax Return – CT603 & Company Tax Return – CT600.
	Registration with a Governing Body – If a company or partnership or sole trader needs to be registered under UK legislation in order to operate legally – they should provide evidence of the registration.
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.

Type of Organisation	
Public Bodies:	A public body will automatically be accepted as bona fide. A “public body”, for this purpose, means a body that appears in the Public Bodies’ Directory issued annually by the Cabinet Office. A copy of the Directory can be found at http://www.civilservice.gov.uk/other/agencies . However, a public body that wishes to bring in students must have been inspected by OFSTED (see Universities/ Educational Establishments (below)).
Overseas Governments or International Organisations	A signed letter from the Head of the Mission (or international organisation) or his or her delegated representative confirming that he or she is seeking a place on the Sponsor Register.
Private Limited Companies, Limited Liability Company, Unlimited Companies, Companies Limited By Guarantee, Company incorporated under the Industrial and Provident Societies Act 1968, Branch Office of an Overseas Company, Representative Office of an Overseas Company & Limited Liability Partnership (other, in all cases, than a start-up company as defined above):	At least four of the following documents. This must include the audited accounts where the organisation is legally obliged to file these.
	Organisation’s latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)
	Latest annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.

Type of Organisation	
	Current Financial Report or Audited Annual Report.
	Company's VAT registration number and certificate of VAT registration (if turnover in excess of £64,000)
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Latest Notice to file a Company Tax Return – CT603 & Company Tax Return – CT600.
	Registration with a Governing Body – If a company or partnership or sole trader needs to be registered under UK legislation in order to operate legally – they should provide evidence of the registration.
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.
Self Employment – Partnership, Sole Trader, Franchise	At least four of the following documents. This must include the audited accounts where the organisation is legally obliged to file these. The exception to this is for sole traders who wish to sponsor temporary workers (under Tier 5) and who do not wish to employ the migrants they wish to sponsor. In these circumstances only two of these document, including audited accounts, need be provided.
	Proof of registration with HMRC as self-employed – Please provide each partner's Unique Tax Reference Number (UTR) and/or the Partnership's/Business' Unique Tax reference Number (UTR).
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.
	Franchise Agreement.
	Company's VAT registration number and certificate of VAT registration (if turnover in excess of £64,000)
	Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) This option does not apply to organisations based in Northern Ireland.
	Organisations latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)

Type of Organisation	
	Latest annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Registration with a Governing Body – If a company or partnership or sole trader needs to be registered under UK legislation in order to operate legally – they should provide evidence of the registration.
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.
	Fire Inspection Certificate.
Educational Institutions	<p>If an institution is outside the system of reviews carried out by the Quality Assurance Agency, OfSTED, Her Majesty’s Inspectorate for Education (Scotland), Estyn (Wales), the Education and Training Inspectorate (Northern Ireland) or the Independent Schools Inspectorate (ISI), it must provide evidence that the institution has been accredited by one of the following bodies:</p> <ul style="list-style-type: none"> • OFSTED – the Office for Standards in Education • Accreditation UK – a British Council scheme which offers an accreditation service for English language schools; • BAC – the British Accreditation Council – which offers a more general accreditation service to cover a wide range of different educational establishments and their courses; and • ASIC – the Accreditation Service for International Colleges – which also offers a general accreditation service to cover a wide range of different educational establishments and their course. <p>If an institution does fall within the review system above they must provide evidence that they have been inspected or audited by the appropriate body.</p>
Nursing Homes/ Care Homes:	CSCI Certificate – clearly showing the ratings received from the council – plus at least three of the following documents. This must include the audited accounts where the organisation is legally obliged to file these.
	Copy of Contract with a Local Authority in the United Kingdom.
	Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) This option does not apply to employers based in Northern Ireland.

Type of Organisation	
	Organisation's latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)
	Latest annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.
	Company's VAT registration number and certificate of VAT registration. (If turnover in excess of £64,000)
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
Hotel & Catering Establishments:	A3 (Restaurants/Café) A4 (Pubs/Bars)/A5 (Hot Food/Takeaways), C1 (hotels) Planning Certificate issued by the local authority in England, or equivalent certification in the rest of the UK or, in England, equivalent certification which pre-dates the current licensing system, plus at least <u>three</u> of the following documents. This must include the audited accounts where the organisation is legally obliged to file these.
	Organisation's latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)
	Latest Annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) This option does not apply to organisations based in Northern Ireland.
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.
	Company's VAT registration number and certificate of VAT registration (if turnover in excess of £64,000)
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Licence for Premises to serve Alcohol – Issued by the Council/Court
	Registration as food premises under the Food Safety Act

Type of Organisation	
Charities	Proof of Registration with Register of Charities – verifiable by viewing the Register on www.charitycommission.gov.uk or The Office of the Scottish Charity Regulator (OSCR) if your charity is established in or operates in Scotland www.oscr.org.uk . Any charity in Northern Ireland looking to employ migrant workers, need to provide proof of having obtained charitable status for tax purposes from HMRC.
	Plus at least <u>three</u> of the following documents. This must include the audited accounts where the organisation is legally obliged to file these:
	Evidence of Registration with HM Revenue & Customs (HMRC Charities). For charities established in England and Wales which are not required to register with the Charity Commission and for charities in Northern Ireland, applications for eligibility to claim the charitable tax exemptions should be made in writing to HMRC Charities.
	Organisations latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)
	Latest annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) This option does not apply to employers based in Northern Ireland.
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.
Religious Faith Bodies	Proof of Registration with Register of Charities – verifiable by viewing the Register on www.charitycommission.gov.uk or The Office of the Scottish Charity Regulator (OSCR) if your charity is established in or operates in Scotland www.oscr.org.uk . Any charity in Northern Ireland looking to employ migrant workers needs to provide proof of having obtained charitable status for tax purposes from HMRC.

Type of Organisation	
	Plus endorsement from the Religious/Faith Body approved by BIA, Plus at least <u>three</u> of the following documents. This must include the audited accounts where the organisation is legally obliged to file these:
	Evidence of Registration with HM Revenue & Customs (HMRC Charities) – for charities established in England and Wales which are not required to register with the Charity Commission and for charities in Northern Ireland, applications for eligibility to claim the charitable tax exemptions should be made in writing to HMRC Charities.
	Organisations latest Audited Annual Accounts with the name of the Accountant clearly shown. The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc)
	Latest Annual self-assessment tax return to HMRC – Statement of Account (SA300 or SA302).
	Employers Liability Insurance for at least 5 Million Pounds from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.) – This requirement does not apply to employers based in Northern Ireland.
	Evidence of Registration with HM Revenue & Customs (HMRC) as an employer to pay PAYE & National Insurance. Please provide proof of your PAYE Reference Number & Accounts Office Reference Number.
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.
	Latest Corporate/Business Bank Statement along with a letter from the Bank.
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.
Sport	A governing body endorsement (GBE) for that particular sport, plus at least <u>three</u> of the following documents . This must include the audited accounts where the organisation is legally obliged to file these.
	Employers Liability Insurance for at least £5 million from an authorised insurer. (Authorised insurers are individuals or companies working under the terms of the Financial Services & Markets Act 2000. The Financial Services Authority (FSA) maintains a register of authorised insurers.)

Type of Organisation	
	Organisation's latest Audited Annual Accounts with the name of the Accountant clearly shown – The Accountant should be a member of an Accredited Accounting Body (CIMA, CIPFA, ACCA, ACA etc).
	Proof of Business Premises and other Fixed Assets or Proof of Lease of Business Premises.

APPENDIX B: RELEVANT CRIMINAL OFFENCES

Offences for which conviction may lead to the refusal of an application for a sponsorship licence, to the award of a B-rating or to withdrawal of a licence.

Act	Section	Description of offence
Immigration Act 1971	S.24A(1)(a)	Use of deception to seek or gain Leave to Enter (LTE) or Leave to Remain (LTR)
	S.24A(1)(b)	Uses deception to avoid/postpone/revoke enforcement action
	S.25	Act which knowingly facilitates breach of immigration law by non EU citizen
	S.25A	Knowingly, for gain, facilitates entry into UK of asylum seeker
	S.25B	Assisting entry in breach of Deportation Order
	S.26A(3)(a)	Makes false registration card
	S.26A(3)(b)	Alters registration card with intent to deceive/for another to deceive
	S.26A(3)(c)	Possession false/altered registration card without reasonable excuse
	S.26A(3)(d)	Uses/attempts to use false registration card for purpose for which a card is issued
	S.26A(3)(e)	Uses/attempts to use altered registration card with intent to deceive
	S.26A(3)(f)	Makes article to be used in making false registration card
	S.26A(3)(g)	Makes article to alter registration card with intent to deceive/enable another to deceive
	S.26A(3)(h)	Possession, without reasonable excuse, of articles to be used to forge or alter a registration card
	S.26B (1)	Possession immigration stamp without reasonable excuse
S.26B (2)	Possession replica immigration stamp without reasonable excuse	
Asylum & Immigration Act 1996	S.8 (1)(a)	Employer offence of employing a person over 16 who does not have LTE/LTR
	S.8(1)(b)	Employer offence of employing a person over 16 whose leave is not valid/subsisting or is subject to condition prohibiting employment
	S.8(3)	The employer offence where they knew at the point of recruitment that the person did not have an entitlement to work in the UK
Immigration & Asylum Act 1999	S.106	Offence where the applicant makes dishonest representations with a view to obtaining any asylum benefit, other payment or advantage

Act	Section	Description of offence
Nationality, Immigration and Asylum Act 2002	S.137	Employer offence of not disclosing information without reasonable excuse
Sexual Offences Act 2003	Sections 57-59	Trafficking people for sexual exploitation
The Accession (Immigration and Worker Registration) Regulations 2004	S9	Employer offence of employing an A8 national without proper registration, when not exempt
Asylum & Immigration (Treatment of Claimants etc) Act 2004	S.2	Entering UK without passport
	S.3	Forgery of immigration documents
	S.4	Trafficking people for exploitation
	S.35	Deportation or removal: non-co-operation with re-documentation
Identity Card Act 2006	S25(5)	Deliberately appropriating a person's passport/ID documents, or retaining them without the owner's consent
The Accession (Immigration and Worker Authorisation) Regulations 2006	S12	Employer offence of employing an A2 national without authorisation, when not exempt
	S14	Employee offence of using deception to obtain authorisation, when not exempt
Immigration, Asylum and Nationality Act 2006	S21	Employer offence of knowingly employing an illegal worker

APPENDIX C: RELEVANT CIVIL OFFENCES

List of civil penalties, the imposition of which (within the previous five years) may lead to the refusal of an application for a sponsorship licence, to the award of a B-rating or to withdrawal of a licence.

Act	Section	Offence
Immigration and Asylum Act 1999	32-37	Carrying clandestine entrants
Immigration and Asylum Act 1999	40-41	Carrying passengers without proper documents
Nationality, Immigration and Asylum Act 2002	124	Bringing passenger to UK without authority to carry
Immigration, Asylum and Nationality Act 2006	15	Employing an illegal migrant worker

