

The UK Immigration System

What Overseas Businesses
Need to Know





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Do you need to work in the UK?

The UK has various immigration schemes for foreign businesses looking to establish a presence or invest in the UK.

However, such businesses, their owners and employees need to ensure that they comply with requirements of those schemes and the UK's Immigration Rules in general - individuals breaching the UK's immigration laws can be fined, imprisoned and excluded from the UK.

This guide will give you an overview of:

- the UK immigration system
- the visa categories that are relevant to overseas businesses
- trends in UK immigration law and anticipated changes affecting businesses

“ We have worked closely with Tom Brett Young on visas and immigration for several years and have always found the service he provides to be excellent.

He is very knowledgeable and helpful, always available to answer our queries and does so promptly. ”

How Does the UK Immigration System Work?

Who Has the Right to Work in the UK?

Following the end of the Brexit Transition period, **British and Irish citizens** are the only nationalities who have an **automatic right to live, work and study** in the UK without any restrictions.

How to Acquire That Right?

Everyone else must be **granted permission**, or 'leave', to enter or remain in the UK. That leave is subject to restrictions on the activities which the individual may undertake while in the UK and the period for which they are able to remain here.

Leave to enter or remain in the UK is granted by UK Visas & Immigration (UKVI), the operational command of the Home Office responsible for immigration control in the UK.

That leave is granted in accordance with **Immigration Rules** approved by Parliament. The Rules set out the criteria to be met and the conditions which will be attached to the immigration status granted to successful applicants.

Many categories require the applicant to **apply for entry clearance** (a visa) demonstrating that they meet the requirements of the Immigration Rules before travelling to the UK.



The most common way for foreign nationals to come to the UK is under the Immigration Rules for visitors.

Who Is This for?

Visitors from many countries require a visit visa before travelling to the UK.

Others, such as citizens of European Union countries,

the USA, Canada, Japan, South Korea, Australia and New Zealand do not need to obtain a visa in advance.

The Requirements

Visitors are required to:

- be able to support themselves without working or claiming public funds
- be a genuine visitor who will not live in the UK for extended periods or through frequent and successive visits

Unless their activities are expressly allowed by the rules, business visitors also need to demonstrate that they will not:

- take employment
- establish or run a business as a self-employed person
- direct sell to members of the public
- provide goods and services

Permitted Activities

Permitted activities include:

- attending meetings and conferences
- negotiating and signing deals and contracts
- carrying out site visits
- gathering information for employment overseas
- certain 'intra-corporate' activities that do not involve client work

Permitted activities cannot amount to taking employment, filling a role or providing short-term cover for a role within a UK-based organisation. Visitors can only receive payments from a UK source for their activities in very specific circumstances.

Maximum Stay

Six months.

Eligibility for Indefinite Leave to Remain

None.

Immigration Categories Permitting Work

In almost every case, an individual who wants to come to the UK to establish a business or otherwise work in the UK will need to **apply for the appropriate visa** in their country of residence before departing for the UK.

The main immigration categories permitting work are:

- Representative of an overseas business
- Global Talent
- Tier 1 (Investor)
- Innovator and Start-up
- the Intra-Company routes
- the Skilled Worker route

Representative of an Overseas Business

Who Is This for?

Senior employees of overseas businesses, sent to the UK for the purposes of establishing a branch or wholly-owned subsidiary here.

The Requirements

- no current presence in the UK
- the employee cannot have a majority stake or control a majority of the overseas business
- knowledge of English
- having enough money available to support themselves and any family members without claiming public funds

Visa Length

Three years, which can be extended for a further two years.

Eligibility for Indefinite Leave to Remain

After five years.



Global Talent

Who Is This for?

Recognised or emerging leaders in the fields of science and medicine, engineering, humanities, digital technology or arts and culture (including fashion, architecture or film and television).

Applicants must be endorsed by the relevant endorsing body before applying for a visa in this category.

Visa Length

Up to five years.

Eligibility for Indefinite Leave to Remain

Applicants will be eligible for settlement after three or five years depending on the identity of the endorsing body and the criteria satisfied to obtain that initial endorsement.





Tier 1 (Investor)

Who Is This for?

Individuals with £2 million funds available to invest in share capital or loan capital in one or more active UK companies.

Visa Length

Three years, which can be extended for a further two years.

Eligibility for Indefinite Leave to Remain

After two, three or five years depending on the amount they have invested.

Innovator and Start-Up

Who Is This for?

Individuals looking to set up or run a business in the UK.

The Requirements

Endorsement from a Home Office approved endorsing body for a business idea that is innovative, viable and scalable.

The Innovator category is for more experienced businesspeople and requires an investment of £50,000 into a new business.

Visa Length

Start-up visa: two years (this cannot be extended, although it may be possible to switch into the Innovator category).

Innovator visa: three years and can be extended for a further three years.

Eligibility for Indefinite Leave to Remain

Individuals in the Innovator category may be eligible to apply after three years if they meet the relevant requirements.





Employer-Sponsored Categories

Who Is This for?

Businesses already established in the UK, who wish to sponsor the visa applications of foreign nationals to

come to the UK to carry out a specific job for that business.

The Requirements

The branch or subsidiary must have at least one UK-based employee who:

- is a British or Irish citizen
- has been granted indefinite leave to remain in the UK, or
- holds a visa under the Representative of an Overseas Business, Tier 1 (Entrepreneur), Start-up, Innovator, Global Talent or UK Ancestry categories

That individual will be responsible for ensuring that the business complies with its duties as a sponsor.

The job must meet minimum skill level and salary requirements, and the individual either needs to demonstrate that they hold sufficient funds to support themselves and any family members for their first month in the UK, or the sponsor must certify that they will not claim public funds during that period.

Types of Employer-Sponsored Work Visas

- Skilled Worker
- the Intra-Company routes
- T2 Sportsperson
- T2 Minister of Religion

A red telephone booth stands on a city street at night. The street is filled with light trails from passing vehicles, creating a sense of motion. The telephone booth is a classic red structure with a sign that says 'TELEPHONE' at the top. The background shows a city street with buildings and streetlights.

Employer-Sponsored Categories

Skilled Worker

For individuals offered a skilled job in the UK by a licensed sponsor:

- The sponsor must ensure that the role meets the skill level and salary requirements. They will also need to be able to demonstrate that the role is genuine and that the sponsored worker is capable of doing the job.
- The applicant must demonstrate their English language ability.
- May qualify for indefinite leave to remain after five years.

Intra-Company Transfer

For individuals transferring from a company which is linked by common ownership or control to the sponsoring UK business:

- Two separate categories: the Intra-Company Transfer route, which is for established workers (usually employed by the overseas business for at least 12 months) and the Intra-Company Graduate Trainee, which is for workers on a structured graduate training programme.
- No English language requirement.
- Usually for a maximum of five years.
- Does not lead to indefinite leave to remain.

Other Options

Sometimes you may be able to send an individual to the UK without the need for sponsorship or an endorsement.

Individuals who may qualify for a visa include:

- spouse or long-term partner of a British citizen
- spouse or long-term partner of someone being granted a work visa
- citizens from Commonwealth countries with a grandparent who was born in the UK (UK Ancestry)

The requirements, length of visa and eligibility for indefinite leave to remain depend on the category the individual is applying under.

What Else Should We Consider?

✓ Right to Work Checks

Employers are required under UK law to **'play their part'** in enforcing immigration law by checking the immigration and nationality status of all employees and prospective employees.

Employers found to be employing anyone without the appropriate permission to work can be fined up to **£20,000 per illegal worker**.

Immigration checks are also required in other circumstances, including by landlords, the National Health Service, the Driver and Vehicle Licensing Agency and banks.

£ Immigration Fees

The government's position is that the immigration system should be **self-funding**, with those benefitting from immigration meeting the costs.

Fees for UK immigration applications are often in excess of **£1,000** per person. The fees for indefinite leave to remain applications are almost **£2,500** per person.

Employers sponsoring migrant workers under the Skilled Worker and Intra-Company Transfer routes are required to pay an Immigration Skills Charge of up to **£1,000** for each year the individual is being sponsored.

🇪🇺 The Post-Brexit Immigration System

The UK **left the EU** on 31 January 2020. Rights of free movement for EU, EEA and Swiss nationals ended on 31 December 2020.

Citizens of those countries (apart from the Republic of Ireland) are now subject to the same **immigration restrictions** as those from the rest of the world.

EU, EEA and Swiss nationals (and their family members) who were resident in the UK before 11pm on 31 December 2020 when the Brexit Transition period ended are permitted to remain in the UK provided they have applied for **settled or pre-settled status** under the EU Settlement Scheme.

Additionally, any EU, EEA or Swiss nationals who **regularly travelled to the UK** to work before the end of the Transition period may qualify for a Frontier Work Permit which will allow that arrangement to continue.

It remains to be seen whether EU citizens or citizens of other countries will be given **preferential status** within the immigration system under any future trade deals.

Another future development may be the introduction of a **points-based category** that will prioritise earnings, proficiency in English, qualifications, occupation and willingness to work in particular areas of Britain.

How We Can Help

Whether it's employing someone to live and work in the UK or adopting policies to prevent illegal working, you need business immigration solicitors who will **focus on your objectives** and can **guide you through the complexities of the UK's immigration laws**.

Our specialist Immigration team prides itself on its record of working with employers of all shapes, sizes and types and ensuring that our advice is tailored to your needs.

We offer a range of services which we can provide to you on a retainer or fixed fee basis, including:

- **immigration applications** for senior and strategically important members of staff
- **sponsor** licence applications and supporting compliance with your sponsor duties
- **assistance** with sponsorship and associated visa or leave to remain applications under the Skilled Worker and Intra-Company routes
- **audits** of your sponsor licence, processes and records to ensure sponsorship compliance
- **a helpline** giving you direct access to our specialist business immigration solicitors
- immigration **training** tailored to your needs
- **advice** on complying with the rules on preventing illegal working, including supply of template policies

Get in Touch Today

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