

**RICHMOND
CHAMBERS.**

immigration barristers

**IMMIGRATION
ROUTES**

**FOR
SMALL
AND
MEDIUM
BUSINESSES**



IMMIGRATION ROUTES FOR SMALL AND MEDIUM BUSINESSES

Whether you wish to establish a new business in the UK, recruit a talented foreign worker or check if your business is reviewing its employees' rights to work correctly, our UK immigration barristers are well versed in the immigration rules for small and medium businesses.

Our specialist immigration barristers work closely with small and medium sized businesses to ensure that their immigration requirements are met. Providing a completely outsourced immigration service, our immigration barristers design tailored immigration solutions that enable SMEs to meet their business objectives in full compliance with UK immigration law.

General visa information

In the UK, employers have to balance their business needs with their duty to prevent illegal working. If you wish to employ a worker from outside the European Economic Area, the employee must obtain, or already have, permission to work. You will be required to check that all your employees have the required immigration permission to work for you in the UK.

The following categories of people have the right to work in the UK:

- British Citizens (This is the only form of British nationality where the holder automatically has the right to work. British Nationals, British Nationals (Overseas), British Overseas Territories Citizens, British Overseas Citizens, British Subjects and British Protected Persons do not normally have the automatic right to work in the UK);
- EEA citizens and citizens of Switzerland;
- Those with the right of abode in the UK;
- Those with no time limit on their stay in the UK; and
- Those with a visa or permission to remain in the UK which permits work (This may be subject to conditions, such as a maximum number of hours to be worked in a week, which must be complied with).

Students may have permission to work, but if they do, this will be limited during term time. Some individuals with applications pending with the Home Office may also have permission to work in the UK. In this case you will need to obtain a Positive Verification Notice from UKVI's Employer Checking Service.

If your employee does not already have permission to work in the UK, there are several visa options available to your business:

- Visit (Standard) – Business
- Representative of an Overseas Business
- Tier 2 (General)
- Tier 2 (Intra-company Transfer)
- Tier 5 (Temporary Worker)

	Visit (Standard) Business	Representative of Overseas Business	Tier 2 (General)	Tier 2 (Intra- company Transfer)	Tier 5 (Temporary Worker)
Maximum length of initial visa	6 months*	3 years	5 years	5 years	Initially 12 months, or length of engagement
Extension	X	Extension of 2 years, for an unlimited period	Up to 6 years in total	Up to 5 years in total (9 years for high earners**)	Up to 2 years
Settlement	X	✓	✓	X	X
Sponsor Licence required	X	X	✓	✓	✓
Minimum salary requirement	X	X	£30,000 (£20,800 for some applicants) or occupation minimum	£23,000 (Graduate Trainee). £41,500 (Long-term Staff)	Trade Union minimum salary
Restrictions	Permitted Business Visitor activities only	Can only work for business sending representative	Must work for sponsoring employer	Must work for sponsoring employer	Must undertake role sponsored for
Dependants	X	✓	✓	✓	✓

* It is also possible to obtain a Visit (Standard) - Business visa for up to 1 year, 2 years, 5 years or 10 years. However, each visit must last no more than 6 months.

** A high earner is someone whose salary is £159,600 or more.

Visit (Standard) Visa for Business

The Visit (Standard) – Business visa is designed for non-EEA nationals who wish to come to the UK for the purpose of undertaking business activities.

What are the main eligibility requirements?

In order to be granted a Visit (Standard) – Business visa, you will need to satisfy UK Visas and Immigration that you are a genuine visitor. This means that you:

- Will leave the UK at the end of your visit; and
- Will not live in the UK for extended periods through frequent or successive visits, or make the UK your main home; and
- Are genuinely seeking entry for a purpose that is permitted by the visitor routes and will not undertake any prohibited activities; and
- Have sufficient funds to cover all reasonable costs in relation to your visit without working or accessing public funds

Visit (Standard) – Business visa holders may undertake a wide range of business activities in the UK, including but not limited to:

General activities: attend meetings, conferences, seminars and interviews; give a one-off or short series of talks and speeches provided these are not organised as commercial events and will not make a profit for the organiser; negotiate and sign deals and contracts; attend trade fairs for promotional (not selling) work; carry out site visits and inspections; gather information for an employer overseas; be briefed on the requirements of a UK based customer, provided any work for the customer is done outside the UK.

Intra-corporate activities: an employee of an overseas company may advise and consult, trouble-shoot, provide training, share skills and knowledge on a specific internal project with UK employees of the same corporate group, provided no work is carried out directly with clients.

Prospective Entrepreneur: a visitor who can show support from a registered venture capitalist firm regulated by the FCA, an approved seed funding competition or a UK government department may come to the UK for discussions to secure funding to join, set up or take over a business in the UK.

Overseas roles requiring specific activities in the UK: Individuals employed outside the UK may visit the UK to take part in a wide range of activities in relation to their employment overseas.

What else do I need to know?

Most visitors will need to make an application for a visit visa from their country of residence, before travelling. However, nationals of some countries are exempt from this requirement and can simply apply for leave to enter as a visitor at the UK border.

A Visit (Standard) – Business visa will allow you to stay in the UK for up to 6 months. Within the period for which your visit visa is valid, you may enter and leave the UK multiple times, unless the visit visa is endorsed as a single or dual-entry visa.

You may visit friends and family and/or come to the UK for a holiday. You may also undertake a maximum of 30 days incidental study as set out in the Visit (Standard) – Short Term Study section.

If you intend to undertake a Permitted Paid Engagement then you should apply for a Permitted Paid Engagements (PPE) Visit visa.

You will not be permitted to work, receive payment from a UK source for any activities undertaken in the UK or undertake more than 30 days' non-incidental study in the UK.

You must have sufficient funds to cover all reasonable costs in relation to your visit without working or accessing public funds. This includes the cost of your return or onward journey, any costs relating to dependants, and the cost of planned activities.

Sole Representative Of Overseas Business

The Sole Representative visa category is for businesses that would like to send a senior employee to the UK in order to establish a commercial presence for the company in the UK. You will need to have a genuine business which is based outside of the UK and hold not more than 50% of the shares in the business.

What are the main eligibility requirements?

In order to qualify for a Sole Representative visa you will need to show that your overseas company:

- Is a genuine, trading business;
- Has no branch, subsidiary or other representative in the UK;
- Intends to establish a branch or subsidiary in the UK, operating in the same type of business as the overseas business.

You will also need to demonstrate that you:

- Are a senior employee in the business;
- Have been recruited outside of the UK;
- Have full authority to take operational decisions on behalf of the business;
- Do not hold more than 50% of the shares in the business;
- Do not intend to take employment other than for your business.

What else do I need to know?

Your initial visa will be valid for 3 years, after which time you will be able to extend your stay for a further two years.

After five years in the UK, you may be eligible to apply for settlement.

Your partner and any children under the age of 18 may accompany or join you as your dependents.

You will not be able to work for any business other than the business that you represent in the UK.

Tier 2 (General)

The Tier 2 (General) category is for individuals who have an offer of a skilled job in the UK from a licensed Tier 2 Sponsor. This category includes applicants coming to the UK to fill shortage occupations. You will need to have an offer of employment before applying for a visa.

What are the main eligibility requirements?

In order to qualify for a Tier 2 (General) visa, you will need to satisfy UK Visas & Immigration that:

- You have a job offer in the UK from an employer that holds a Tier 2 Sponsor License;
- The job you are sponsored for is at least graduate level or a specified creative profession;
- The job is on the Home Office's list of skilled occupations;
- You will be paid a minimum salary of £30,000 (£20,800 for some applicants) or the minimum for the exact job you are doing, whichever is higher;
- The job offer is a genuine vacancy and you are appropriately qualified or registered to do the job.

Your Sponsor will need to show that there is no suitable settled worker to fill the role. In most cases, they will need to prove that they have undertaken a genuine 'Resident Labour Market Test'. This normally means that they have advertised the role for at least 28 days in two places and no suitable settled worker has applied.

A Resident Labour Market Test is not required in cases where the job is on the Shortage Occupation List, or if you will be a high earner (annual salary of £159,600 or more). If you are switching from a Tier 4 (General) Student visa then your employer will usually be exempt from the Resident Labour Market Test.

You will need to be competent in the English language to at least CEFR Level B1 (equivalent to IELTS 4.0 in reading, writing, listening and speaking) and have enough additional money to support yourself without relying on public funds.

What else do I need to know?

If your application for a Tier 2 (General) visa is approved then your first visa can be valid for a maximum period of 5 years and 14 days, or the time given on your Certificate of Sponsorship plus 1 month, whichever is shorter. Your stay must start no more than 14 days before the start date on your Certificate of Sponsorship.

Your partner and any children under the age of 18 may accompany you as your dependents.

You can apply to extend your stay for up to another 5 years, as long as your total stay is not more than 6 years.

You can settle permanently in the UK after being in the Tier 2 (General) category for five years, and if you have been in the UK in certain other immigration categories you may be able to combine the time spent to count towards settlement.

If you have had a Tier 2 visa in the last 12 months, you may be subject to a 'cooling off period'. You will not normally be able to apply to re-enter the UK in this category from overseas during this period.

You can switch into the Tier 2 (General) immigration category if you are already in the UK under Tier 1, 2, or 4 of the point-based system.

If you are currently in the UK as a Tier 2 (Intra-company Transfer) (ICT) migrant, you will only be able to switch into the Tier 2 (General) category if your Tier 2 ICT visa was granted before 6th April 2010 and you are applying to change sponsor, or you have leave under the Tier 2 ICT: Established staff category granted before 6th April 2011 and are applying to change sponsor.

If you are currently in the UK as a Tier 4 (General) Student, you will need to complete and pass your degree level course before you are eligible to switch into the Tier 2 (General) category.

You can include guaranteed allowances to demonstrate that you meet the minimum salary criteria, as long as they would also be paid to a settled worker.

You must not own more than 10% of the shares of the company sponsoring you, unless your gross salary is £159,600 or more.

In most cases you will only be able to work for your Sponsor, though you may be able to do some additional part time work in certain circumstances.

If you will be working in certain health, education or social work professions you may need to provide a criminal record certificate from any country that you have lived in for 12 months or more in the last 10 years.

Tier 2 (Intra-company Transfer)

The Tier 2 (Intra-company Transfer) category is for existing employees of multinational employers who need to be transferred to their UK branch for training purposes or to fill a specific vacancy. You will need to have an offer of employment in the UK from a licensed Tier 2 Sponsor before applying for a visa and the overseas employer must be linked by common ownership or control to the UK branch.

What are the main eligibility requirements?

There are currently two open sub-categories of the Tier 2 (Intra-company Transfer) visa: Long-term Staff and Graduate Trainee.

If you are applying in the Long-term Staff sub-category then you must have worked for your employer overseas for at least 12 months, unless you will earn £73,900 or more in the UK.

If you are applying in the Graduate Trainee subcategory then you will need to show that the role you are applying for is part of a structured graduate training programme, with clearly defined progression towards a managerial or specialist role within the organisation. Each Sponsor can only sponsor 20 people in this category per year.

You will need to show that you have a job offer in the UK from an employer that holds a Tier 2 Sponsor License. The organisation you are transferring from must be listed as a linked entity on your Sponsor's licence.

The job you are sponsored for must be at least graduate level or a specified creative profession, as well as on the Home Office's list of skilled occupations.

If you are applying in the Long-term Staff sub-category then you must be paid a minimum of £41,500 per year, or the minimum for your exact job, whichever is higher.

If you are applying in the Graduate Trainee sub-category then you must be paid a minimum of £23,000 per year, or the minimum for your exact job, whichever is higher.

You will need to have enough money to support yourself without relying on public funds.

What else do I need to know?

The maximum stay for the Long-term Staff sub-category of the Tier 2 (Intra-company Transfer) visa is either 9 years (if you earn more than £120,000 per year) or 5 years, 1 month (if you earn less than £120,000 per year) or the time given on your certificate of sponsorship plus one month, whichever is shorter.

The maximum stay for the Graduate Trainee sub-category of the Tier 2 (Intra-company Transfer) visa is 12 months or the time given on your certificate of sponsorship plus one month, whichever is shorter.

You will be able to work for your sponsor in the job described in your certificate of sponsorship and do a second job in the same profession and at the same level as your main job for up to 20 hours per week.

Your partner and any children under the age of 18 may accompany you as your dependents.

You can include some allowances to demonstrate that you meet the minimum salary criteria, as long as they would also be paid to a settled worker.

If you have had a Tier 2 visa in the last 12 months you may be subject to the 'cooling off period'. You will not normally be able to apply to re-enter the UK in this category from overseas during this period. You will be exempt if you will be earning at least £120,000. You will also be exempt if you previously had leave in the Graduate Trainee or (now closed) Skills Transfer or Short-term Staff sub-category and are returning in Tier 2 (Intra-company Transfer) Long Term Staff.

You cannot settle permanently in the UK, unless you applied for a Tier 2 (Intra-company Transfer) visa before 6 April 2011.

Tier 5 (Temporary Worker)

The Tier 5 (Temporary Worker) category is for certain types of temporary worker whose entry to the UK will help to satisfy cultural, charitable, religious or international objectives. You will need to have an offer of a position before applying for a visa.

What are the main eligibility requirements?

Each subcategory has its own eligibility requirements:

Creative and Sporting: The Creative and Sporting subcategory of the Tier 5 (Temporary Worker) route is for individuals who have been offered work as a creative worker (including, but not limited to, actors, dancers, musicians and film crew) or sportspersons.

If you apply for a Tier 5 (Temporary Worker) visa as a creative worker, you will need to demonstrate that you can make a unique contribution to the UK labour market and that you will be paid the minimum salary as set by Equity, PACT or BECTU.

If you apply for a Tier 5 (Temporary Worker) visa as a sportsperson, you will need to be endorsed by the governing body for your sport and demonstrate that you will make a significant contribution to your sport at the highest level in the UK.

Charity Worker: You can apply for a Tier 5 (Temporary Worker) visa in the Charity Worker sub-category if you wish to undertake unpaid voluntary work for a charity. The work that you intend to undertake in the UK must directly relate to the charity which is sponsoring you and the position must not be a permanent position.

Religious Worker: If you would like to undertake religious work, for example preaching or working in a religious order, you may be able to apply for a Tier 5 (Temporary Worker) visa in the Religious Worker sub-category. Your salary and conditions will need to be at least equal to that received by settled workers in the same role. Your employer may need to conduct a 'resident labour market test', which in some circumstances will entail providing evidence of a national recruitment search.

Government Authorised Exchange: The Tier 5 (Temporary Worker) Government Authorised Exchange (GAE) route is for individuals who wish to come to the UK for a short time for work experience or to complete training, an Overseas Government Language Programme, research or a fellowship through an approved Government Authorised Exchange scheme.

International Agreement: You can apply for a Tier 5 (Temporary Worker) visa in the International Agreement sub-category if, while in the UK, you will be contracted to undertake work that is covered by international law (e.g. working for a foreign government or as a private servant in a diplomatic household). You will normally need to have professional experience in the relevant sector before you apply under this route.

What else do I need to know?

This category does not lead to settlement in the UK.

At Richmond Chambers LLP, our immigration barristers regularly assist employees to enter and remain in the UK in all of the work visa routes. We also assist employers to obtain Sponsor Licences and comply with their sponsorship duties.

To find out more about how we can help you with your business immigration requirements, contact our immigration barristers on **020 3617 9173** or by email to **info@richmondchambers.com**.