

Corporate Immigration

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Quick reference guide enabling side-by-side comparison of local insights into the general framework; short-term entry, including visa, visa waiver and fast-track regimes; long-term entry, including assessment criteria, application process and routes for entrepreneurs, investors and highly skilled workers; extension and conversion of immigration rights; rights of dependants; other requirements, restrictions and penalties; and recent trends.

Generated 17 August 2022

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GENERAL FRAMEWORK

Legislation

What primary and secondary legislation governs immigration in your jurisdiction?

The Immigration Act 1971 is the cornerstone of UK immigration legislation. Among other provisions, it assigns a statutory power to create and amend the Immigration Rules to the Secretary of State under section 3(2), and provides for negative procedure, whereby either House of Parliament can disapprove of the changes laid before them by resolution. Parliament has passed further immigration-related legislation since, including in relation to the UK leaving the EU. Post-Brexit, the doctrine of supremacy of EU law no longer applies to the UK and over 100,000 amendments to retained EU law came into force on 31 December 2020.

The UK is a common law jurisdiction and under the doctrine of judicial precedent a court is bound by previous related decisions of that court or by those of higher courts. Case law acts to set precedent where no legislation or interpretation of legislation exists. Additionally, the UK regularly publishes and updates guidance for its immigration policy, including policy guidance for specific UK immigration categories such as skilled worker visas, as well as very specific areas such as 'Adults at risk in immigration detention'. Sometimes the Immigration Rules contradict the Home Office policy guidance. Where the provisions of the policy document are more generous than those of the rules, effect should be given to the policy (*Mandalia v Secretary of State for the Home Department*; *Secretary of State for the Home Department v Rodriguez* [2015]).

Law stated - 27 July 2022

Restrictions on cross-border movement

What laws, regulations and policies control movement across borders in emergency circumstances such as a pandemic? How have the border restrictions been implemented?

The UK Borders Act 2007 governs the movement of people across the UK borders. The UK 2025 Border Strategy aims to enhance the collection and use of data collected at borders, establish resilient ports at border crossing points and use upstream compliance to move processes away from the actual frontier and ensure that accurate data tracking is obtained where there are periods of significant movement of people.

When necessary, the government is able to implement its powers under the Civil Contingencies Act 2004 , which provides a framework for responding to emergencies. During the covid-19 pandemic the government introduced alternative legislation such as the Coronavirus Act 2020, as well as using regulations under existing public health legislation such as the Public Health (Control of Disease) Act 1984 (as amended by the Health Protection Act 2008). The Coronavirus Act gave the government the power to slow the spread of the virus through restricting individuals' freedom of movement, including entering and exiting the country. Somewhat predictably with such an urgent Act, provisions were made for the Act to come under scrutiny every six months, with due consideration being given to its continuance, and reports were commissioned every two months setting out which provisions of the Act were in force. No scrutiny was given to the Act by the Houses of Parliament before the Act came into force; however, approval must have been given to the relevant regulations within 28 days of their enactment or they lapse.

Advice for temporary residents in the UK was to attempt to take all reasonable steps to leave the UK when and where it was possible to do so or apply to regularise their stay in the UK at the earliest opportunity. The option to apply for exceptional assurances from the Home Office was made available – a request to extend a temporary visa where an individual may have been unable to return to their country of residence because of exceptional circumstances. Access to visa and immigration services remained available, being considered essential public services. Some immigration consequences were not applied to those whose visa or leave expired during a particularly uncertain or inaccessible

time, with the expectation that they made best efforts to make an application or leave the UK, when those options became available again.

Law stated - 27 July 2022

International agreements

Has your jurisdiction concluded any international agreements affecting immigration (eg, free trade agreements or free movement accords)?

Under the Common Travel Area, Irish citizens are exempt from the government's new points-based system (which followed the end of the transition period after the UK's withdrawal from the EU, when other free movement agreements ceased).

For a period of time, the EU Settlement Scheme (EUSS) allowed individuals from the EU, Switzerland, Norway, Iceland or Liechtenstein, and their family members, to protect their right to live and work in the UK if they started to do so by 31 December 2020. Individuals could apply for pre-settled status if they had been living in the UK for less than five years and settled status if they had been in the UK for at least a five-year continuous period (settled status being the equivalent of indefinite leave to remain for other nationals). Individuals with pre-settled status can apply for settled status once they satisfy the five-year continuous residency threshold. The deadline for applying to the EUSS was 30 June 2021 and there are only limited circumstances where this deadline does not apply. Schedule 1 to the Immigration Act 2020 makes provisions to end the free movement of persons under retained EU law. This means that EU, EEA and Swiss citizens who have not obtained pre-settled or settled status under the EUSS are now subject to the UK's domestic immigration system.

An application for a British national (overseas) visa can be made by British nationals residing in Hong Kong, which allows the individual to live, work and study in the UK. There are also a number of countries that are under agreement with the UK for short visits. A list of non-visa nationals indicates those individuals who will be able to travel to the UK for up to six months at a time without needing a visa. EU nationals now fall into this category.

Law stated - 27 July 2022

Regulatory authorities

Which government authorities regulate immigration and what is the extent of their enforcement powers? Can the decisions of these authorities be appealed?

Enforcement duties are shared by two departments within the Home Office. Immigration Enforcement works alongside law enforcement partners both domestically and overseas to prevent abuse, track immigration offenders and increase compliance with the UK's immigration laws. Border Force is a law enforcement command responsible for securing the UK's borders by implementing immigration and customs checks, patrolling the coastline and alerting the authorities to people of interest.

Parliament is responsible for introducing, debating, amending and voting on legislation, and for a bill to become law it must pass through a series of stages and be approved in both Houses of Parliament. By contrast, changes to the Immigration Rules, as with many statutory instruments, are subject to negative procedure whereby changes introduced by the Home Secretary and laid before Parliament automatically take force on the stated date unless annulled by either House within 28 days.

Law stated - 27 July 2022

Government policy

In broad terms what is your government's policy towards business immigration?

Post-Brexit UK policy aims to implement a new immigration system so that the country can attract 'the brightest and the best' to work or study. The aim of the refreshed points-based system and alternative work routes rolled out in 2021 and 2022 is to attract the highly skilled workers needed by key sectors of the economy and regions of the country while simultaneously reducing overall levels of migration. As a result, there are now less specified routes for individuals of high net worth or a high skill level, and a larger focus on attracting a greater skill level to the general work force. This initiative also reflects part of the UK's 'Build Back Better' initiative post-covid-19, helping businesses to access talent pools from across the world while also protecting local work forces, ensuring greater support to the national economic recovery effort.

Through the end of free movement with the EU and the introduction of the new points-based system the UK has simplified the various ways that different nationalities can enter the UK for work purposes. The continued simplification and streamlining of the immigration system beyond 2022 sees plans to fully digitalise the visa process, from online applications, ID checks, and the issuing of electronic visas by December 2024. The UK 2025 Border Strategy aims to enhance the collection and use of data collected at borders, establish resilient ports at border crossing points and use upstream compliance to move processes away from the frontiers. Digitalising all visa residents in the UK contributes to this overall ability to collect and monitor data, as well as provide quicker processing of documents as migrants enter and exit the country using their visas. There may well be further consequential streamlining of the Home Office's ability to monitor continuous residency and excess absence requirements, submitted with migrants' indefinite leave to remain applications, having spent five years in the UK as a worker under certain categories.

Law stated - 27 July 2022

SHORT-TERM TRANSFERS

Visas

In what circumstances is a visa necessary for short-term travellers? How are short-term visas obtained?

Short-term travellers require an entry clearance visa in advance of travelling to the UK in all circumstances, unless an individual is a non-visa national as determined by the Immigration Rules Appendix Visitor: Visa national list . Stateless individuals, or those travelling on any document other than a national passport, will also need a visa.

A visit, a business visit, or a short-term study visa can be obtained by applying through the government website up to three months before the intended date of travel. A range of documents will need to be submitted, and the individual will need to attend a biometrics appointment before their application is considered.

Law stated - 27 July 2022

Restrictions

What are the main restrictions on a business visitor?

Business visitors are able to come to the UK to conduct pre-arranged, specific activities where an individual is permitted to enter the country as a visitor and to receive a fee. Permissible activities are limited to giving lectures or participating in panel discussions, providing specialist advocacy, professional artists, entertainers or sportspersons

carrying out an activity relating to their main profession, authors engaging in book signings, and designated air pilot examiners. An individual on a business visitor visa will not be able to undertake other paid work, study, live in the UK for an extended period, claim public funds, transit through the UK, or marry in the UK. Additionally, their stay is limited to one month or less and the applicant must be able to show that they will be leaving the UK at the end of their stay, and have funding for the duration of the trip. A formal written invitation from a UK-based organisation is required to obtain such a visa.

Law stated - 27 July 2022

Short-term training

Is work authorisation or immigration permission needed to give or receive short-term training?

If an individual is being paid by a UK company to visit as an expert in their profession, to provide short-term training, consultation or otherwise, then they will need to apply for a business visitor visa. Up to an extent, certain unpaid business activities are also permitted under a standard visitor visa.

Those individuals from non-visa nationalities should still be able to prove they meet the same eligibility requirements to be in the UK for short-term training as an individual on a business visitor visa or standard visitor visa would.

Law stated - 27 July 2022

Transit

Are transit visas required to travel through your country? How are these obtained? Are they only required for certain nationals?

Only certain nationals need apply for transit visas and individuals can check whether they need a visa on the government website. All applications can also be made online.

There are two available transit visas, depending on nationality and the type of transit being made. A direct airside transit visa is required for certain nationalities where they will be changing flights in the UK but will not need to go through UK border control. A visitor in transit visa is available for those changing flights in the UK who will need to go through UK border control, for example, to check in luggage for a connecting flight or stay overnight in the UK. Individuals are required to leave the UK within 48 hours of their arrival and are not permitted to work or study while they are in the country.

Those traveling to or from Ireland, the Channel Islands or the Isle of Man may need to apply for an alternative type of visit visa, depending on their nationality.

For those transiting through the UK on a regular basis, an application for a long-term standard visitor visa is more appropriate.

Law stated - 27 July 2022

Visa waivers and fast-track entry

Are any visa waiver or fast-track entry programmes available?

An electronic visa waiver (EVW) is available for nationals of Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the United Arab Emirates at a small cost. The EVW will allow the individual to visit the UK for up to six months for tourism, business, study or medical treatment, in the same capacity as non-visa nationals from, for example, EEA nationals too.

Entry to the UK in this capacity, and without a visa, is also granted to nationals of Australia, Canada, Japan, New Zealand, Singapore, South Korea, the United States, and Switzerland.

Law stated - 27 July 2022

LONG-TERM TRANSFERS

Categories

What are the main work and business permit categories used by companies to transfer skilled staff?

The UK runs a points-based immigration system whereby anyone coming to the UK for work must meet a specific set of requirements for which they will score points. Visas are awarded to those who gain enough points. It is a system that provides flexible arrangements for UK employers to recruit skilled workers from around the world through a number of different immigration routes.

Five global business mobility routes are available for prospective migrants who fall under certain specific criteria. A graduate trainee visa is available for those being transferred to a UK parent, branch or subsidiary company in the UK for a short part of an otherwise structured graduate training programme. A UK expansion worker visa is available for those of a senior or specialist level in their overseas company to come to the UK to establish a wholly owned subsidiary or register a UK branch for the overseas parent company. The senior or specialist worker routes aims to support inwards investment and trade by allowing multinational employers who are at a certain seniority level or specialist in their field to transfer to a UK branch. A service supplier visa enables temporary work assignments in the UK for contractual workers or employees of an overseas business to undertake very specific work in the UK. A secondment worker visa is available for an employee being seconded to the UK as part of a high value contract or investment by their overseas employer.

Other specific routes include those for high potential individuals graduating from top universities within five years of applying, as well as the scale-up route, which enables migrants to be sponsored by a business on the list of UK scale-up businesses for entry and work in the UK. It is only necessary to work for the sponsoring company for six months out of the two-year visa length (though migrants can stay longer), providing more opportunity for extensive career progression and free movement around the UK.

The skilled worker route is the main route used by migrants entering the UK for work purposes and it requires an individual to be sponsored by a particular business for a specific job role in the UK. Migrants can move around jobs and businesses by obtaining a new certificate of sponsorship for their new role and making a change of employment application online. Both the business and the individual have obligations and fees when applying for this visa.

A number of non-points-based visa options are also available; however, they can only be extended for a certain period of time, and they do not lead to indefinite leave to remain in the UK. The start-up visa aims to attract a greater applicant pool for business founders to establish a business in the UK for the first time, whilst the innovator category works in parallel for experienced businesspersons. The global talent category enables exceptional individuals in certain fields to come to the UK to build their careers.

Law stated - 27 July 2022

Procedures

What are the procedures for obtaining these permissions? At what stage can work begin?

An application for most UK visas can be made three months ahead of the intended work start date.

For the majority, the UK works with a points-based immigration system whereby individuals need to meet a minimum number of points to 'qualify' for their visa. The number of points not only depends on the visa category, but also on the applicant's current status at the time of applying.

All applications for new employees to work in the UK, switch companies in the UK, or for existing employees to transfer to UK business branches, require the business to apply for a certificate of sponsorship for that migrant. A certificate of sponsorship details the migrant job role, salary, and work dates, among other details. There are certain requirements that businesses must ensure they meet, such as meeting the required salary level for the particular position.

Those applying from outside the UK have to apply for a 'defined' certificate of sponsorship, whereby the job details are approved by the Home Office, before the certificate is assigned to the individual. Once a certificate is assigned, the details of the role can be given to the individual so that they can add them to their application form ahead of submission.

All applications can be made online, using the relevant forms. For those individuals extending their permission to remain in the UK and who currently have a biometrics residency permit or for EU, EEA and Swiss nationals with a biometrics chip in their passport, an alternative application portal is available and an applicant can complete their ID checks virtually, instead of having to attend a biometrics appointment after the submission of their application. For all other nationals' biometrics, appointments are still mandatory at this point and a visa will not be considered by a Home Office caseworker until biometrics have been submitted at an application.

The required documentary evidence varies significantly depending on the visa category applied for. For many there is an English language requirement. In addition, all overseas migrants must satisfy the Home Office that, for a minimum period of 28 days prior to applying for their visas, they have access to the minimum cash amounts (known as maintenance) specified by the Home Office for their type of visas (including consideration of any dependant applicants applying with them), held by them in a regulated banking institution. Businesses can alternatively opt to certify the individual's maintenance on their certificate of sponsorship.

Law stated - 27 July 2022

Period of stay

What are the general maximum (and minimum) periods of stay granted under the main categories for company transfers?

Applications for work visas, as opposed to business visitor visas, are generally not made for shorter than six-month periods. Occasionally, businesses will hire interns for shorter periods of time, and these individuals may often fall under a different immigration category to a skilled worker, depending on the nature of the work being undertaken (eg, whether the functioning of the business would remain the same without the intern present and whether the intern has a client-facing role). This is known as a temporary work visa.

Some of the global mobility visa categories can only be granted for two or three years initially, and then extended for a total of five years in a six-year consecutive period across any of the categories, while skilled worker visas can be granted for a maximum of five years at any one time. Skilled worker visas can be extended beyond five years or, on completion of five years in this immigration category, the migrant can apply for more permanent leave to remain in the UK.

Law stated - 27 July 2022

Processing time

How long does it typically take to process the main categories?

Standard processing times for most work visas is up to eight weeks. Generally, visit visas can take slightly longer to process than other visa types.

Priority and super priority services are available for an extra fee for certain visas, and depending on whether an application is being made from within the UK or from abroad. Processing times can range from 24 hours to five working days, depending on the available services.

Law stated - 27 July 2022

Staff benefits

Is it necessary to obtain any benefits or facilities for staff to secure a work permit?

No.

Law stated - 27 July 2022

Assessment criteria

Do the immigration authorities follow objective criteria, or do they exercise discretion according to subjective criteria?

The UK introduced a points-based immigration system which curtailed the number of variable factors in deciding visa applications. Whether a prospective migrant meets the criteria is, on the face of it, objectively scored.

However, the Immigration Rules and Home Office guidance authorise caseworker discretion where an applicant may be close to meeting the rules, or where there might be some subjectivity in the interpretation of documentary evidence or intention. Discretion may be exercised by the deciding caseworker on the good character requirement – determining the consequential effect of disclosed criminal offences or immigration breaches. For example, this could include consideration of whether an overstayer remained in the UK without a visa for reasons outside of their control (such as severe ill health) or whether they had the capacity to leave and chose not to. Similar discretion is warranted to short-term visas where there is a requirement to show an intention to leave the UK again.

Where an individual's circumstances mean that they may not come close to meeting one or more of the requirements for a particular visa, they may choose to apply for discretionary leave to remain.

Law stated - 27 July 2022

High net worth individuals and investors

Is there a special route for high net worth individuals or investors?

Individuals who wish to come to the UK to invest a significant amount of money into a new business in the country may be able to apply through the innovator category under the updated Immigration Rules, however, all other previously available routes for high net worth individuals, entrepreneurs and investors have been removed in recent years.

Law stated - 27 July 2022

Is there a special route (including fast track) for high net worth individuals for a residence permission route into your jurisdiction?

Not applicable.

Law stated - 27 July 2022

Highly skilled individuals

Is there a special route for highly skilled individuals?

The UK's immigration policy and updated points-based system aims to attract highly skilled workers needed by key sectors of the economy and regions of the country while at the same time reducing overall levels of migration.

Through an endorsement application, or through the winning of certain globally recognised awards, an individual may make an application to live and work in the UK under the global talent visa for up to five years at a time without being attached to one particular job role. The visa allows an individual to work in the UK in academia or research, if they are a leader or potential leader in science, medicine, engineering or humanities.

The high potential individual visa route is a short-term work visa for individuals at an early stage in their career, who have shown that they have the potential to benefit the UK workforce. The individual will need to provide evidence that they have graduated from one of the eligible international universities in the five years immediately prior to the date of their visa application. The list of global universities that the Home Office will consider graduates from is reasonably narrow and is updated yearly. Successful applicants will be issued a two- or three-year visa, depending on level of their academic qualifications.

Law stated - 27 July 2022

Ancestry and descent

Is there a special route for foreign nationals based on ancestry or descent?

An ancestry visa is available for citizens of an eligible Commonwealth country who can prove that at least one of their grandparents was born in the UK, the Channel Islands or the Isle of Man, or was born in Ireland before 31 March 1922. It is also available where they, or their parents, were adopted.

A foreign national on this visa will be able to travel to the UK to work (employed or self-employed) or study, and they may bring their partner or children with them. After five years' stay in the UK on this visa, the individual may apply to settle permanently in the UK. A number of other criteria will have to be met for an application to be approved, such as proof of financial maintenance.

Law stated - 27 July 2022

Minimum salary

Is there a minimum salary requirement for the main categories for company transfers?

The minimum salary requirement for a skilled worker visa is £25,600. However, there are job-specific salary requirements and minimum thresholds to meet.

Minimum salary requirements for individuals coming to the UK to undertake a role in the shortage occupations list are

70 per cent of the pro rata market rate as stated in the eligible occupations list . Those on a graduate trainee visa could also be expected to be paid the same reduced rate. The lowest salary applicable is £23,100.

Where the migrant is expected to be of a more senior level, and in certain other immigration categories, a greater salary requirement is automatically required. The minimum salary requirement for a senior or specialist worker visa is £42,000, except for where the migrant is applying for permission to stay through transitional arrangements from an old visa category.

For those on the scale-up route there are no salary requirements, however, if an applicant wishes to apply for more permanent leave to remain in the UK after five years' residency, then they will need to prove that their PAYE earnings were at least £33,000 per annum or the going rate for their position (whichever is higher) for at least 50 per cent of their time on this visa.

Law stated - 27 July 2022

Resident labour market test

Is there a quota system or resident labour market test?

No.

Law stated - 27 July 2022

Shortage occupations

Is there a special route for shortage occupations?

When applying as a skilled worker, applicants can fall into shortage, or non-shortage workers. The shortage occupation list , recommended by the independent Migration Advisory Committee, is comprised of skilled jobs where there is an identified national shortage that is sensible to fill, at least in part, through immigration. An applicant with an occupation on this list will have lower fees and a reduced salary requirement. It does not, however, exempt jobs from the other mandatory requirements of the skilled worker route, including the skills threshold and the English language requirement.

Law stated - 27 July 2022

Other eligibility requirements

Are there any other main eligibility requirements to qualify for work permission in your jurisdiction?

All applicants are required to pay the immigration health surcharge for themselves and their dependants before their application is considered by the Home Office. Any employer hiring a migrant for a role in the UK under one of the global business mobility or skilled worker routes will also be required to pay the immigration skills charge (variable in cost, depending on the size of the business).

A number of individuals on the senior or specialist worker route and the service supplier route must have been employed by their overseas service provider or business for a cumulative period of 12 months outside the UK, and still be working for them at the time they submit their visa application.

Law stated - 27 July 2022

Third-party contractors

What is the process for third-party contractors to obtain work permission?

There are limited options for a contractor to obtain work permission in the UK. A service supplier visa enables temporary work assignments in the UK for contractual workers or employees of an overseas business to undertake very specific work.

The overseas migrant must have obtained a contract for their work in the UK, which should be registered with the Home Office, and come under a service that is covered by one of the UK's international trade agreements. The overseas work requirement for this visa can be met if the individual has worked for the overseas service provider for a cumulative period of 12 months outside the UK and is still working for the same provider at the time they submit their application. The individual should be educated to a degree level in the relevant field or hold an equivalent level technical qualification, and must have at least three years' professional experience (or six years if they are self-employed or are supplying chef de cuisine services under the CARIFORM-UK Economic Partnership Agreement). The individual's nationality should be the same as the country in which the overseas service provider is based, although there are some exceptions, depending on the service being provided.

Individuals on the majority of working visas in the UK are not able to work as a contractor on other companies' premises on a full-time basis without obtaining a sponsorship from that company. Migrants may be eligible to work an extra 20 hours per week for another company where the work is of the same role as they are sponsored for under their visa and is undertaken outside their normal working hours.

Law stated - 27 July 2022

Recognition of foreign qualifications

Is an equivalency assessment or recognition of skills and qualifications required to obtain immigration permission?

For a number of visas, including the skilled worker visa, an academic equivalence assessment is necessary where a degree has been completed outside the UK. A company called Eccits is the only third-party provider that can issue such a certificate to the satisfaction of the Home Office. This is the same company that can issue certificates to confirm that a degree was examined in English (to meet the English language requirement) and the majority of individuals obtain both certificates at once.

There are a variety of arrangements for different professions that have regulatory bodies in the UK and guidance is issued by the Home Office on their obligations as regulators and upon the route to recognition for professionals with alternative qualifications. Significant updates have been made since the UK left the EU to recognise qualifications obtained in both the Common Travel Area and the EEA and Switzerland.

For those in the healthcare professions, there are often a number of options in order for a migrant to practise in the UK depending on where the initial qualifications and training were undertaken. Where an individual cannot obtain an equivalence recognition because of the country they trained in, or a significant time period has passed since training or practising, then options for internships, lower level work, and academic work for a period of time can lead to formal recognition in the long term.

Law stated - 27 July 2022

EXTENSIONS AND VARIATIONS

Short-term to long-term status

Can a short-term visa be converted in-country into longer-term authorisations? If so, what is the process?

Migrants wishing to transfer to another visa category will not be able to apply from within the UK where they are on a visit visa, short-term student visa, seasonal worker or domestic worker visa. An individual on any of these short-term visas must leave the UK and apply for a working visa from their country of nationality or legal residency.

A shorter-term graduate trainee visa can be transferred to another, longer-term visa within the global business mobility visa categories.

Law stated - 27 July 2022

Long-term extension

Can long-term immigration permission be extended?

Those on the global business mobility routes are able to continue to extend their visas to remain in the UK in any combination of the routes for up to five years in any six-year period before needing to move into another immigration category.

Those on the skilled worker route may extend their leave in the UK under this route indefinitely.

Law stated - 27 July 2022

Exit and re-entry

What are the rules on and implications of exit and re-entry for work permits?

Individuals are either issued with an electronic visa or biometrics residency permit. Once a migrant is in possession of such a document, there are no restrictions on the number of times they can exit and re-enter the UK. Absences under routes where an individual's visa is contingent on sponsorship from a business should correlate with sickness, holiday entitlement and the like.

Consideration should be given to the periods of absences allowed in order to meet the continuous residency requirements for indefinite leave to remain, if this is the route the individual is looking to take in the future.

Law stated - 27 July 2022

Permanent residency and citizenship

How can immigrants qualify for permanent residency or citizenship?

An individual will be eligible to apply for indefinite leave to remain in the UK where they have been on a combination of any of the global business mobility routes and any other route (including student and family routes) for a continuous period of at least 10 years, or where they have been on a skilled worker visa for a continuous period of at least five years.

Where an individual has applied for a combination of visa types across a longer period of time, they may become

eligible for a long residency indefinite leave to remain application after 10 years' continuous leave to enter/remain in the UK. Exactly one year after obtaining indefinite leave to remain in the UK, the individual becomes eligible to become a British citizen.

Law stated - 27 July 2022

End of employment

Must immigration permission be cancelled at the end of employment in your jurisdiction?

If an individual moves away from the UK or is made redundant then the business sponsoring them has an obligation to notify the Home Office of the date employment in the UK was terminated, within 10 days of that date at the latest, although this will often happen at the time the notice of termination is given. If an individual is no longer employed in the UK, their leave to remain in the country will be automatically curtailed and they will need to apply for a new visa or make arrangements to leave the UK within 60 days.

If an individual's job role significantly changes or they move to a different business area then a new certificate of sponsorship may be required and a visa applying for the change of role should follow, before the individual takes up their new role.

Law stated - 27 July 2022

Employee restrictions

Are there any specific restrictions on a holder of employment permission?

Those individuals on the scale-up visa route only need to be sponsored by their original sponsor for six months (out of the two-year visa) and are free to move to another employer or become self-employed.

Providing they continue to undertake the role they have been sponsored to do, those on the relevant global business mobility and skilled worker visas are allowed to take on extra work that falls in the same occupation code as their sponsored role for no more than 20 hours per week, falling outside of normal working hours. Voluntary work is permitted, as well as studying – subject to any Academic Technology Approval Scheme conditions.

Salaries can change, as long as they do not fall below the salary package recorded on an individual's certificate of sponsorship. More significant changes, including lowering a salary, must be appropriately reported to the Home Office by the business.

Law stated - 27 July 2022

DEPENDANTS

Eligibility

Who qualifies as a dependant?

A dependant includes a husband, wife, civil partner (where these partnerships are recognised by the UK) or unmarried partners who have been living together for two years or more, and children under 18 years of age, including those who may have been born in the UK during a period of stay under a visa. Those children over 18 can also qualify as dependants in certain circumstances. Significant additional evidence will be required to support applications for unmarried partners and for child dependants over the age of 16 to confirm their continued dependency on the main applicant.

Conditions and restrictions

Are dependants automatically allowed to work or attend school?

It is a requirement that all children attend school in the UK. Dependant partners are often given permission to work and study in the UK with only a few exceptions. Exceptions to permissible work can include work in some areas of medicine or sport.

Law stated - 27 July 2022

Access to social benefits

What social benefits are dependants entitled to?

Dependants do not have recourse to public funds or a state pension, much like main applicants. Both, however, can access the National Health Service.

Law stated - 27 July 2022

OTHER REQUIREMENTS, RESTRICTIONS AND PENALTIES

Criminal convictions

Are prior criminal convictions a barrier to obtaining immigration permission?

The nature and timing of the conviction are the significant determining factors as to whether it becomes a barrier to obtaining immigration permission. Minor convictions that have led to fines, such as driving offences should be disclosed but will often not be a barrier because they would not form part of a criminal record in the UK. Convictions leading to time in prison will become a more serious consideration. If the prospective migrant has had a previous sentence of four years or more imprisonment, the application will normally be refused, regardless of when the conviction occurred. Fifteen years should have passed if a sentence was of one to four years' imprisonment, and 10 years for one year or less. Non-custodial sentences should have occurred at least three years ago. For individuals wishing to extend their leave indefinitely in the UK, there is a requirement that they prove they are free of unspent convictions (under the Rehabilitation of Offenders Act 1974) when applying for indefinite leave to remain.

Skilled worker applicants wishing to obtain immigration permission to work within the health, education and social care sectors are additionally required to obtain a criminal record certificate.

Law stated - 27 July 2022

Penalties for non-compliance

What are the penalties for companies and individuals for non-compliance with immigration law?

How are these applied in practice?

Non-compliance with the Immigration Rules can lead to fines of up to £20,000. An individual may be removed from the UK following a civil or criminal charge and any immigration non-compliance may have a negative impact on future applications for leave to enter or remain in the UK. Businesses also face a potential downgrading, suspension or revocation of their sponsor licence.

Accidental non-compliance with the Immigration Rules is equally concerning and it is each sponsor's responsibility to ensure they only employ migrants with permission to work in the UK and as part of this duty, employers are expected to undertake document checks, maintain certain records, and report relevant changes. A criminal charge will apply if an employer is found to have knowingly employed illegal workers and prosecutions may also occur where a migrant has provided, or an employer has processed false identity documents, particularly in relation to potential trafficking offences.

Correct compliance with right to work checks are therefore important for work visas. The type of check an employer will conduct will depend on the status of the individual the business intends to employ. A manual check can be completed for individuals that do not have an online immigration status (eVisa). An online check is required for individuals who only hold an eVisa. This applies to most EU citizens, including those with pre-settled or settled status, anyone with a Hong Kong BNO (British National Overseas) visa, and some other nationalities who have moved to the UK more recently under the points-based system.

Law stated - 27 July 2022

Language requirements

Are there any minimum language requirements for migrants?

To work or study in the UK, migrants need to meet an English Language requirement, unless they are under the age of 18, over 65, have a disability preventing them from completing the requirement or, in certain circumstances, are applying for settlement as the partner, parent or dependent child aged 18. Global Business Mobility migrants also do not have to establish their English language requirements.

The requirement can be met by proving that the migrant is a national of a majority-English-speaking country, has an academic qualification taught in a university or college in a majority-English-speaking country or taught and examined in English, or by taking a Home Office-approved English language test. Those who are applying under the category of skilled worker may use an English GCSE or A Level.

The Home Office follows the Common European Framework for determining the appropriate level of English for those needing to take a test. Applicants applying as a skilled worker will have to pass a test at level B1 or above, where A1 is the lowest level of language knowledge and C2 is the greatest.

Law stated - 27 July 2022

Medical screening

Is medical screening required to obtain immigration permission?

Prospective migrants who are coming from countries where tuberculosis continues to be a major health risk are required to obtain a certificate from a Home Office-approved medical practitioner to confirm that they are not suffering from tuberculosis. The certificate is valid for six months and is only needed for individuals having resided in a relevant country for six months or more, and/or who are applying to stay in the UK for more than six months.

Law stated - 27 July 2022

Secondment

Is there a specific procedure for employees on secondment to a client site in your jurisdiction?

Migrants being seconded to the UK as part of a high-value contract or investment by their overseas employer may be

eligible for the global business mobility secondment worker route. It is necessary to demonstrate overseas work requirements, including that the potential migrant has worked for the employee for a cumulative period of 12 months outside the UK, and is still working for them, at the time of submission. The educational requirements of the visa ensure that migrants supply a service to a high standard and there is also a requirement for the nationality of the overseas migrant to be the same as the country in which the business is based.

Additionally, attendance at certain consultations, training or other events in a UK client site might mean the employee is eligible for a business visitor visa instead, if no additional or prolonged work is necessary in the UK.

Law stated - 27 July 2022

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics in corporate immigration regulation in your jurisdiction?

Reports of a shortage of skilled labour in the UK are of particular concern to employers. As the UK has emerged from successive lockdowns, there has been a sharp upturn in demand for workers and UK employers are increasingly turning to overseas migrants to meet their talent needs.

The government's 'new plan for immigration', launched in May 2022, announced new and revised business immigration routes to help attract ambitious talent from around the world and give businesses access to top graduates as part of the talent pool. Whether the UK can become competitive for skilled workers again, amidst the continued parallel policy of creating a hostile environment for migrants attempting to come to the UK, still remains to be seen. Businesses are spending a lot more money on the ever-increasing costs involved in engaging with the UK immigration system to hire the talent they need to progress their businesses in the UK. The UK plans to make the immigration process attractive in other additional ways, including by digitalising the entire process, but it is too early to see the impact of these changes in terms of not only attracting talent to the UK, but also of retaining talent once migrants arrive.

There is, consequently, a noticeable increase in business precautions being implemented in the short term. For example, there is a noticeable increased use of clawback clauses for visa costs through which employers try to discourage sponsored employees from moving sponsors.

Law stated - 27 July 2022

Jurisdictions

	Australia	Holding Redlich
	Austria	Oberhammer Rechtsanwälte
	Canada	KPMG Law
	Denmark	Mette Klingsten Advokatfirma
	Israel	Dardik Gross & Co Law Firm
	Japan	TMI Associates
	Nigeria	Bloomfield Law
	Norway	Vialto Partners
	Panama	Anzola Robles & Asociados
	Spain	Bojorge Law Firm
	Switzerland	KPMG Law
	United Kingdom	Magrath Sheldrick LLP
	USA	KPMG Law