

Immigration to the UK: Tier 1 (Entrepreneur) Visa

The immigration process within the UK is divided into various different Tiers and the Entrepreneur Visa application process falls within Tier 1 and is often referred to as Tier 1 (Entrepreneur). Following amendments to the legislation on the 6 April 2011 various changes to the application process came into effect. This note provides a summary of the criteria required to be met in order to make a successful application.

You will first need to qualify for Entry Clearance and after a certain period of time may apply for an extension (Leave to Remain) and/or Indefinite Leave to Remain. Under the terms of the Entrepreneur Visa, pending qualification for Indefinite Leave to Remain, you are not allowed to work in the UK other than for the business or businesses which you have created, or taken over in order to qualify for the Tier 1 (Entrepreneur) Visa.

It will be possible for entrepreneurs to settle in the UK after three years (as opposed to the normal five year requirement). Details of how this can be achieved are provided for under "Indefinite Leave to Remain".

Step 1 - Entry Clearance

In order to meet the criteria for Entry Clearance you must ensure the following:

- You have at least £200,000 available to make a new investment into a UK business or at least £50,000 from a respected organisation such as a registered venture capital firm regulated by the FSA, and such funding should be made available for the purpose of creating or developing a UK business. The initial start-up investment of a minimum of £200,000 may be made by an entrepreneurial team of two persons. If an entrepreneur is considered to have high potential then they will be allowed to enter the UK under the Tier 1 (Entrepreneur) category, so long as they have minimum funding of £50,000 from a specified organisation such as a regulated Venture Capital Firm.
- The relevant money must be held in a regulated financial institution and freely disposable in the UK.
- You have a good knowledge of the English language and, depending on your country of origin, you may be required to pass an English language test.

- Further to the funding required to be provided to invest in or establish a UK company, you must demonstrate that you have sufficient funds to support yourself and any dependants in the UK for the duration of your visa without any recourse to public funds. When making an application for Entry Clearance you may include your partner and/or children under 18 as dependants. In this instance “partner” means a spouse, civil partner, unmarried or same sex partner.
- You are able to provide the necessary evidence in support of your application. You will need to provide bank statements as well as any other appropriate statements of funds or accounts that you may need to establish your credentials. Assuming the Entry Visa is granted this will allow you to enter the UK and permit you to remain resident in the UK for a period of three years and four months.

As a prospective entrepreneur you will be able to enter the UK under the category of Tier 1 (Prospective Entrepreneur). Under this category you will have the opportunity to visit the UK for a period of six months in order to obtain the necessary funding to apply for the full Tier 1 (Entrepreneur) Visa.

Step 2 - Leave to Remain

Unless you are able to make a fast track application for Indefinite Leave to Remain within three years (see below), you will need to make arrangements to extend your leave to remain for a period of two years. Your application must be made prior to the expiration of your current visa and your ability to extend will depend on the overall success of your initial investments.

You will need to demonstrate that:

- You have invested at least £200,000 in cash directly into one or more businesses in the UK.
- Within six months of entry into the UK you have registered as a director of a new or existing company with Companies House or as self-employed with HM Revenue & Customs.
- You are engaged in the business activity when making the application for Leave to Remain and that you continue to be registered as either a director of a company or as self-employed with HM Revenue & Customs within three months of the date of the application.
- You have created the equivalent of two new full time jobs for UK resident individuals.
- You continue to have sufficient funds to maintain yourself (and any dependants) for the period of the extension visa.

- Depending on your circumstances, if you have not yet satisfied the requirement for understanding of the English language, then you will need to ensure the test is taken to qualify for an extension.

It is worth highlighting that the value of any residential accommodation or investments in any property development or property management business will not be awarded credit when making this application.

Step 3 - Indefinite Leave to Remain

Application for Indefinite Leave to Remain after **three** years of residence in the UK

In order to achieve Indefinite Leave to Remain in the UK having lived in the UK for just three years as a Tier 1 (Entrepreneur) you will need to meet the following conditions:

1. Your business will need to have created at least ten new full time jobs within the three year period for UK resident individuals, or you will have established a new business that has an income from business activity of at least £5m during this three year period, or you have taken over or invested in a business and you are able to demonstrate that your investment has resulted in a net increase of £5m in that business income from business activity undertaken in the three year period compared to the three year period preceding your service or investment.
2. You will need to be engaged in the business activity when the application for Indefinite Leave to Remain is made.
3. You must spend no more than 180 days in any calendar year outside of the UK through the three year period.
4. You will need to demonstrate a good knowledge of the English language and may be required to pass a life in the UK test.

Eligibility to Apply for Indefinite Leave to Remain after **five** years of residence in the UK

The criteria are broadly the same as for Leave to Remain but in order to be able to apply for Indefinite Leave to Remain in the UK after having lived in the UK for five years you will need to meet the following requirements:

1. You will need to have invested at least £200,000 in cash directly into one or more businesses in the UK.
2. Within six months of entry into the UK you will need to have registered as a director of a new or existing company with Companies House or self-employed with HM Revenue & Customs.
3. You will need to be engaged in the business activity when making the application for Indefinite Leave to Remain and will need to demonstrate that within three months of the date of the application that you continue to be registered as either a director or a company or as self-employed with HM Revenue & Customs.
4. You will also need to establish that you have created the equivalent of two new full time jobs for UK resident individuals.
5. You must spend no more than 180 days in any calendar year outside the UK throughout the five year period.

Step 4 - British Citizenship (Naturalisation)

You will be able to apply for British Citizenship once you have been resident in the UK for more than five years and the last year of this period must not be subject to any time restrictions. You must not have spent more than 450 days outside the UK during this five year period.

Rooks Rider Solicitors LLP has a team of advisers who would be happy to assist with any queries concerning the Tier 1 (Entrepreneur) Visa application process as well as any more general relocation matters required.

For more information about these issues and how they could affect you, please contact Krithika Sahi or a member of the Rooks Rider Solicitors' Wealth Planning team:



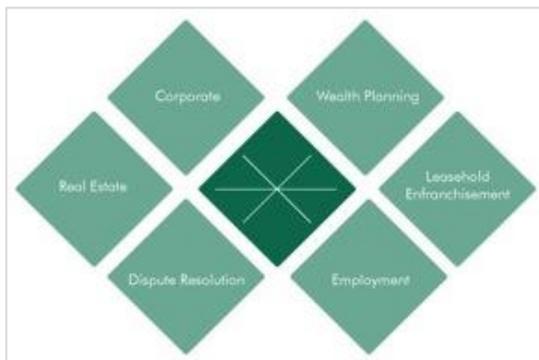
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