



**UK Immigration Advice for
Investors, Entrepreneurs
and Businesses**

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Legal 500, 2020



TIER 1 INVESTOR VISA

The Investor visa route is for those individuals who wish to acquire UK residence by investing funds in the United Kingdom.

Key requirements to achieve this visa:

- You must have access to at least £2,000,000 (Two million pounds sterling) in investment funds to be able to apply for this visa. As long as the investment fund does not drop below £2million pounds whilst you are in the UK on the investor visa you are free to do whatever you like, work, live and study.
- The £2million pounds needs to be your own personal money (if it is from a third party then the third party will need to make an unencumbered gift of it to you). You need to be able to show that you can freely invest the money in the UK along with evidence showing that you have the required funds.
- The £2million pounds should have been held in one or more regulated financial institutions for at least 2 years prior to the application OR you need to provide a paper trail for the money showing, how much you have, where it is held and where it has come from (source of funds) and that the money can be readily transferred to the UK and converted to Sterling. The UK Home Office has suggested that it would require applicants to provide an independent audit of their wealth as part of the application process but this has not yet been brought into effect.
- The money can be held in the UK or overseas when the application is made.
- Applicants are required to have a Financial Conduct Authority (FCA) regulated UK bank or investment account opened for the purpose of making the investment in the UK and provide a letter from the institution confirming that the account has been opened. In addition, the bank needs to confirm in the letter that it has completed all of the due diligence and Know Your Client checks required by the FCA.
- The visa is granted for three years and four months and can then be extended for another 2 years leading to the right to apply for permanent residence (indefinite leave to remain) after 5 years.
- Once indefinite leave to remain has been achieved you can then apply for British citizenship one year later if you so wish (year 6).

- Currently you can invest £2,000,000 or more in share capital or loan capital in active and trading UK registered companies but you cannot invest in property or companies mainly engaged in property investment, property management or property development.
- An active and trading UK Company is defined as one which:
 - Is registered with Companies House;
 - Is registered with Her Majesty's Revenue and Customs for corporation tax and PAYE;
 - Has accounts and a UK business bank account showing regular trade of its own goods and services; and
 - Has at least two UK based employees who are not directors.
- UK government bonds also no longer qualify as a qualifying investment.
- The Home Office has clarified the "price of investment" means the amount paid by the applicant for the investment, not the face value. This provides welcome clarity that those who buy bonds can include accrued interest as counting towards the required minimum capital investment.
- Investment in a pooled investment vehicle is permitted where the vehicle also receives funding from the UK government or a devolved government – for example, the British Business Bank or Scottish Investment Bank. Further, any intermediary vehicles must be regulated by the FCA and they will need to provide evidence of the final destination of an investment to show that the UK was the ultimate beneficiary of the investment.
- You can apply from within the UK for a Tier 1 Investor visa if you are already in the Country on a Tier 4 general visa (student visa).
- You do not need to show proof that you meet the English language requirement.
- You do not need to show evidence that you can financially support yourself during your stay in the UK on the investor visa.
- You do not need to prove to the authorities what you are doing in the UK, unlike on the Start-up / Innovator visa where you have to produce a detailed business plan, which needs to be endorsed by an approved endorsing body and then run a UK business. As long as your £2million investment stays at £2million or above then you are free to do what you like, whilst in the UK.
- You will need to provide Criminal record certificates from any country that you have lived in for 12 months or more in the last 10 years.
- You will need to undergo a Tuberculosis test.
- You will need to pay the NHS healthcare surcharge fee, which is £400 per year for 5 years.
- The visa application fee to the Home Office is £1,623.00.

All government fees are correct at the time of producing this note but are subject to change in April every year.





TIER 1- START UP / INNOVATOR VISA

The Start Up / Innovator Visa route is for those individuals who wish to set up and run an innovative business in the UK.

Start Up Visa

The start-up visa has been designed to replace the Graduate Entrepreneur Visa and is for individuals wanting to start up a new business in the UK. It is important to note that this visa never leads to settlement and is strictly limited to 2 years. After 2 years, you either have to leave the UK or apply to switch to an Innovator visa, if you can obtain endorsement. The Start Up visa cannot be extended in any way.

The applicant does not need to be the sole founder of the proposed business and can be part of a team.

Applicants granted this visa must intend to spend the majority of their working time in the UK developing their business venture(s) but will not be restricted from undertaking other work.

Step 1 – Business Proposal

In order to be granted a Start-up visa the applicant must be proposing a new business idea that meets the following requirements:

Innovation

The applicant has a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage.

Viability

The applicant has, or is actively developing, the necessary skills, knowledge, experience and market awareness to successfully run the business.

Scalability

There is evidence of structured planning and of the potential for job creation and growth into national markets.

There is no specific requirement for funds to be invested into the business but failure to cover this specific issue, would be unusual for a business that intends to be viable and scalable but does not require any investment.

Step 2 – Endorsement

Applicants must obtain an endorsement letter from an approved endorsement body to submit with their application.

The endorsing body will review the applicant's business proposal and decide if it meets the above tests. If so, it will provide specified information to the Home Office in the endorsement letter about the applicant and their business. The letter must be dated within three months of the date of the immigration application.

Endorsing bodies must be able to competently assess applicants' business ventures against the endorsement criteria set out in the rules. They must be one of the following:

- (1.) A UK higher education institution ('HEI'), which has established processes for identifying, nurturing and developing entrepreneurs among its undergraduate and postgraduate population and is a recognised body in receipt of public funding as an HEI from one of the following;
 - the Higher Education Funding Council for England
 - the Scottish Funding Council
 - the Higher Education Funding Council for Wales
 - the Department of Employment and Learning in Northern Ireland; or
- (2.) any other organisation which has a proven track record of supporting UK entrepreneurs.

The Immigration Rules state that the endorsing body must confirm that the applicant has not previously established a business in the UK, unless their last grant of leave was under the Tier 1 (Graduate Entrepreneur) or Start-up visa. If they have previously established a business, they will need to apply under the Innovator route.

Endorsing bodies must keep in contact with those they endorse and report to the Home Office/withdraw endorsement in certain circumstances where the applicant is not meeting the requirements of the scheme.

Step 3 – Credibility

The applicant must be able to persuade the Home Office that

- they genuinely intend to undertake, and are capable of undertaking, the work/business activity referred to in their application (the Home Office will consider factors such as their work, education and immigration history and any declarations made to other government departments (for example, HMRC) regarding the applicant's previous employment and other activity in the UK);
- they do not intend to work in breach of immigration law (if the application is successful, the applicant will only have permission to work as outlined in their business plan);
- any money they claim is available to them is genuinely available as they have described and that they intend to use it for the purposes described in their application.

The applicant may be invited to attend a credibility interview.

Step 4 – Mandatory Requirements

Age: Applicants must be at least 18 years old.

English: Applicants must be able to speak English to Level B2 CEFR. To demonstrate this they must:

- be from an English-speaking country as defined in the Immigration Rules; or
- have a degree taught in English; or
- have previously met this requirement, at this level, in an eligible UK immigration category; or
- have passed a specified Secure English Language Test.

Maintenance: unless the endorsing body is certifying maintenance, the applicant must have held at least £945 for a consecutive period of at least 90 days in a manner specified by the rules. Where dependants are applying, the applicant must also demonstrate that the maintenance requirement for them is met. You must have £630 for each dependent in addition to the £945 required for the main applicant.

A tuberculosis test certificate is mandatory, if you are from a country where one is required.

The cost of the Start Up visa, when applied for outside the UK is £363. The applicant will also have to pay the healthcare surcharge of £400 per year. The fees for the applicant's dependents are the same as for the applicant.

The standard time it takes for the UK Home Office to make a decision on this visa is 3 weeks for the main applicant and 8 weeks for dependents.

Innovator Visa

This category is for more experienced business people seeking to establish a business in the UK. This category may lead to settlement in the UK unlike the Start-up visa, which never leads to settlement. The visa is granted for an initial period of 3 years and can then be extended by a further 3 years, if the applicant's business continues to be endorsed by an accredited endorsement body.

An applicant who was originally in the UK on a Start-up visa for a period of 2 years and then switches to the Innovator visa for a 3-year period (5 years in total in the UK), can then apply for indefinite leave to remain after 3 years on the Innovator visa. If the applicant has come to the UK on the Innovator Visa, without starting out on the Start-up visa, they will need to be on the Innovator visa for a minimum of 5 years before being eligible to apply for indefinite leave to remain.

An applicant can form a team with other Innovator applicants, but they cannot share the same investment funds.

Key requirements to achieve this visa:

1.) Endorsement

- Before you can apply, you will need to have your business or business idea assessed by an approved endorsement body. They will provide you with an endorsement letter to submit with your application.

- To have your 'new business' endorsed, the endorsing body will need to confirm that you have:
 - a genuine, original business plan that meets new or existing market needs and/or creates a competitive advantage;
 - the necessary skills, knowledge, experience and market awareness to successfully run the business; and
 - evidence of structured planning and of potential for job creation and growth into national and international markets.

The endorsement letter must be dated within three months of the date of the immigration application.

- If you are relying on endorsement under the 'same business' criteria, the endorsing body will need to confirm that:
 - you have shown significant achievements, judged against the business plan assessed in your previous endorsement;
 - your business is registered with Companies House and you are listed as a director or member of that business;
 - your business is active and trading;
 - your business appears to be sustainable for at least the following 12 months, based on its assets and expected income, weighed against its current and planned expenses; and
 - you have demonstrated an active key role in the day-to-day management and development of the business.

2.) Funding

- If you are applying under the 'new business' criteria, you must demonstrate that you have access to at least £50,000 for investment in the business. You can also demonstrate that you have already invested the funds in the business. If two individuals are applying for Innovator visas to join the same business, they cannot share the investment funds.
- If the endorsing body is providing the investment funds or is verifying that you have the investment funds available to you or has already invested the funds in your business, then the endorsement letter must confirm this. Otherwise you must provide evidence that you have the investment funds at the time of your application.

3.) Credibility

- In your application, you must be able to persuade the Home Office that:
 - you genuinely intend to undertake, and are capable of undertaking, the work/business activity referred to in your application, the Home Office will consider factors such as work, education and immigration history and any declarations made to other government departments (for example, HMRC) regarding your previous employment and other activity in the UK;
 - you do not intend to work in breach of immigration law. If the application is successful, you will only have permission to work as outlined in your business plan; and
 - any money you state is available to you is genuinely available as you have described and that you intend to use it for the purposes described in your application.

You may be invited to a credibility interview.

4.) Mandatory Requirements

- You must be at least 18 years old.
- You must be able to speak English to Level B2 CEFR. To demonstrate this, you must:
 - be from an English-speaking country as defined in the Immigration Rules; or
 - have a degree taught in English; or
 - have previously met this requirement, at this level, in an eligible UK immigration category; or
 - have passed a specified Secure English Language Test.
- Unless the endorsing body is certifying maintenance, you must have held at least £945 in your bank account for a consecutive period of at least 90 days in a manner specified by the rules. Where dependants are applying, you must also demonstrate that the maintenance requirement for them is met. You must have £630 for each dependent in addition to the £945 required for the main applicant.
- All adult family members must provide a criminal record certificate from any country they have lived in for 12 months or more in the last 10 years.
- A tuberculosis test certificate is mandatory, if you are from a country where one is required.
- The visa application fee to the home office is £1,021, and extensions are £1,277.
- You will need to pay the NHS healthcare surcharge fee of £400 per year.
- The visa is granted for three years initially, and provided you meet the extension requirements, you can apply to extend your stay for a further 3 years.
- The standard time it takes for the UK Home Office to make a decision on this visa is 3 weeks for the main applicant and 8 weeks for dependents.
- You can apply for Indefinite Leave to Remain ('ILR') after five years in the category (providing you meet the requirements for ILR, including that you have spent no more than 180 days during any consecutive 12-month period outside the UK unless an exception applies). If you wish to apply to naturalise and become a British Citizen, 12 months after you achieve ILR, you must ensure that you have not been outside the UK for more than 450 days in aggregate in the 5 years before you apply for ILR and then following this, you have not been outside the UK for more than 90 days in the year after you achieve indefinite leave to remain, before you make an application to naturalise.

N.B. All government fees are correct at the time of producing this note but are subject to change in April every year.





Sole Representative of an Overseas Company – Visa

The UK Immigration Rules allow an overseas Company, which has no branch, subsidiary, or other representative in the UK at the time of the application, to send one key individual to the UK to establish a branch or subsidiary of the parent Company.

- The employee will need to have worked for the foreign Company for at least 6 months before being able to come to the UK on this visa.
- The chosen individual must be a key employee or Director of the parent Company but cannot be the owner or majority shareholder of the Company.

If you are coming to the UK as a sole representative, you must:

- be recruited and employed outside the UK by a company whose headquarters and principal place of business are outside the UK.
 - have extensive related industry experience and knowledge.
 - hold a senior position within the company (but not be a major shareholder) and have full authority to make decisions on its behalf.
 - intend to establish the company's first commercial presence in the UK, for example a registered branch or a wholly owned subsidiary.
- The representative has to be paid a reasonable UK salary in the UK by the parent Company and be given full powers to operate the UK branch or subsidiary as Managing Director.

When applying as a sole representative of an overseas company you'll need to provide:

- a full description of the parent company's activities, including details of assets and accounts.
- a letter confirming the overseas company will establish a wholly-owned subsidiary or register a branch in the UK in the same business activity as the parent company.
- your job description, employment contract and salary details.
- a letter confirming you're familiar with the company and have the power to take operational decisions.

You should also provide evidence that you:

- are directly employed by the parent company and are not acting as a sales agent.
 - were recruited to the company outside of the UK, hold a senior position and are able to make decisions on its behalf and have the authority to establish and operate a registered branch.
 - will be working full time for the company for the duration of your stay and will not carry out any other work.
 - are not a majority shareholder in the company.
- The UK branch or subsidiary has to operate in the same or similar line of business as the parent Company.
- There is no minimum capital requirement for this category, or requirement to employ any resident workers.
- The initial visa is granted for 3 years and can then be extended by a further 2 years. Following this the employee can apply for ILR and then citizenship after 6 years.

The applicant must be able to prove their knowledge of English by either:

- passing an approved English language test with at least CEFR level A1 in speaking and listening; or
 - having an academic qualification that was taught in English and is recognised by UK NARIC as being equivalent to a UK bachelor's degree, master's degree or PhD.
- The applicant (and their dependents) will need to undergo a Tuberculosis test.
- The applicant will need to provide evidence that they can support themselves and any dependants whilst in the UK, showing their bank statements or payslips for the last 6 months. They will also need to show evidence of where they are going to be living, whilst in the UK.
- The earliest an applicant can apply is 3 months before they travel.
- The applicant can bring their dependants (wife and children under 18 years old) with them on this visa.
- A representative of an overseas business visa costs £610 plus the immigration health surcharge of £400 per year.

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