



## THE IMMIGRATION LAW

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### Introduction

The constantly changing immigration law of the UK is quite complicated. The Supreme Court of the UK in its decision in *Patel & Ors v Secretary of State for the Home Department* [2013] UKSC 72 (20 November 2013) agreed with the description of the Master of the Rolls echoing the words of Jackson LJ that the immigration law of the UK is an impenetrable jungle of intertwined statutory provisions and judicial decisions. Hence, it is not easy for even senior judges of the UK to untangle the complex web of immigration law. Therefore, it's not fair to expect a layman making an application or making an appeal to present his case in the best possible way. However, instead of complaining and moaning one must understand the requirements of the law before making one's application so that further complications could be avoided.

Various categories that can be used to migrate to the UK are being summarised below. This is not an exhaustive list, but it is quite relevant and beneficial for most people in India who intend to move to the UK for various purposes. The description of various categories and the requirements concerning them are just indicative rather than accurate and exhaustive in view of the above referred complexity of the immigration law. Our immigration experts will assist you through you the entire process to present the best possible case for you.

### Study Visas

1. **Student Visas** - If a person can get admission to an educational institute in the UK having a sponsorship licence (authorized by the British government) and has required sufficient funds to meet the tuition fee and living expenses in the UK, he will be able to get a student visa.

The applicants pursuing postgraduate level and PhD courses can have their partners(spouses/unmarried partners) and children accompany them to the UK.

2. **Graduate Route** – To qualify under this category international students must have completed a degree in the UK. Students on the Graduate route will be able to work or look for work after their studies for a maximum period of 2 years, or 3 years for Doctoral students.

Hence, students can get 2 to 3 years to live and work in the UK after having completed their course. They can continue to stay in the UK even after the expiry of the graduate route visa if they can find an employer who can issue them a work visa.

The applicants under this category can bring the partners (spouses/unmarried partners) and children.



## Business Visas

3. Investor Visas – If you want to invest £2,000,000 or more in the UK and meet the eligibility requirements such as investing £2,000,000 or more in the UK and meeting the eligibility requirements such as the following:
  - i. The required money sitting in the bank account for at least 2 years. There are exceptions such as money received from the sale of properties, as a Gift, from court settlement etc. can also be taken into account even though it wasn't in the Bank account for 2 years but, the evidence of the sale, court papers etc. will need to be provided.
  - ii. The applicant has opened an account at a UK regulated bank to use for his funds.
  - iii. The funds should be disposable in the UK.
  - iv. To seek an extension on the investor visa, the applicant should have invested those funds in share capital or loan capital in active UK companies within 3 months of your 'investor start date', which is the date of entry to the UK on this visa or the date of grant of this visa if you are already in the UK.

If the applicant is investing £2 million, then he will be granted 3 years visa and 2 years extension thereafter. In five years, he will be entitled to apply for settlement/indefinite leave to remain. If the investment of £5 million is made, then the applicant can apply for settlement/indefinite leave to remain in 3 years and with the investment of £10 million, the settlement/indefinite leave to remain can be applied in 2 years.

## 4. Start-up Visa

People can apply for a Start-up visa if they want to set up an innovative business in the UK - it must be different from anything else on the market and they meet the other eligibility requirement such as endorsement of the business by an endorsing body, meeting level B2 English requirement and having £1270 in their bank account for at least 28 days before the date of the application.

A Start-up visa is granted only for 2 years and there is no extension option under this category. However, the applicant can switch to an Innovator visa provided he sets up a business that is endorsed by an endorsement body.

## 5. Innovator Visa

People can apply for an Innovator visa if they want to set up an innovative business in the UK which is endorsed by an endorsement body authorised by the British government, they meet the other eligibility requirements such as having at least £50,000 to set up the business, meeting level B2 English requirement and having £1270 in their bank account for at least 28 days before the date of the application.

After 3 years of being on an innovator visa, the applicant can apply for settlement/ indefinite leave to remain provided he can demonstrate that they have met the settlement criteria such as • created 10 jobs for settled



workers • at least £50,000 has been invested in the business • the business has generated a minimum annual gross revenue of £1million in the last full year covered by its accounts • the business has engaged in significant research and development and has applied for intellectual property protection in the UK

The applicants under the above discussed business categories can bring along with them their partners (spouses/unmarried partners) and children.

## 6. Skilled Worker visa

A Skilled Worker visa allows people to come to or stay in the UK to do an eligible job with an approved employer. The job must be on the list of occupation, and you must be paid a minimum salary prescribed for that particular job. The English requirement at level B1 needs to be satisfied as well. So, the precondition for this category is to have a certificate of sponsorship from an approved employer (authorised by the British government). After having completed 5 years on this route, the applicant becomes eligible to apply for settlement/indefinite leave to remain.

The partners (spouses/unmarried partners) and children of the skilled workers can accompany them to the UK.

## Family Visas

7. **Spouse Visa** – This visa category is for married partners of British citizens, persons with indefinite leave to remain in the UK or limited leave to remain under Appendix EU or Appendix ECAA. They can apply for a spouse visa provided they meet the requirements such as financial requirement (annual earnings of £18,600 or Savings of £62,500), genuine and subsisting relationship requirement, accommodation requirement and Level A1 English requirement.
8. **Unmarried Partner Visa** – This visa category is for unmarried partners of British citizens, persons with indefinite leave to remain in the UK or limited leave to remain under Appendix EU or Appendix ECAA who have been living together with them in a relationship akin to marriage for at least 2 years. They can apply under this category provided they meet requirements such as financial requirement (annual earnings of £18,600 or savings of £62,500), genuine and subsisting relationship requirement, accommodation requirement and Level A1 English requirement.
9. **Fiancee/ Fiance Visa** –The UK Fiance visa category is for engaged partners of British citizens, persons with indefinite leave to remain in the UK or limited leave to remain under Appendix EU or Appendix ECAA who wish to enter the UK and marry within 6 months of their arrival. The applicant should meet requirements such as financial requirement (annual earnings of £18,600 or Savings of £62,500), genuine and subsisting relationship requirement, accommodation requirement and Level A1 English requirement.
10. **Parental Route** - UK parent visa, is a type of visa where a parent wants to join their child (under 18) who is a citizen or a resident of the United Kingdom with no immigration restrictions. You need to have sole or shared parental responsibility for your child or should have access to the child playing a role in the upbringing of the child.
11. **Children Route** – Under 18 years children can apply as the dependants of their parents.



12. **Adult Dependant Relative** - The applicant must be outside the UK to apply and need long-term care from a parent, grandchild, brother, sister, son or daughter who is living permanently in the UK. The UK relatives must be **British citizens, persons with indefinite leave to remain in the UK or limited leave to remain under Appendix EU or Appendix ECAA. Under this category, it has also to be proved that the care required cannot be organised in the home country of the applicant, which is a very difficult requirement to meet.**

### 13. Visit Visas

You can visit the UK

- for tourism
- to see your family and friend
- for certain business activities, for example, attending a meeting
- to do a short course of study
- to take part in research or an exchange programme as an academic
- for medical reasons, for example, to receive private medical treatment

The British government has a lot of discretion while processing the visit visa applications. The applicants should be able to demonstrate that they have funds to sponsor their UK visit and have strong financial and family ties in their home country to return to.

#### About the author

**Mr. Vikas Sharma:** Is a Senior Partner, UCOL, started his legal career after completing his LLB in 1996 from Campus Law Centre, Delhi University. After practicing in the Supreme Court of India from 1998 to 2005, he moved to the UK, where he completed a Master of Laws (LLM) from Aberdeen Business School. He is quadruple qualified solicitor, currently practicing in Scotland. He is also one of the partners in The Chamber Practice which is a Scottish Law Firm. While practicing as a Solicitor in the UK since 2007, Mr. Sharma gained considerable experience in the immigration laws of the UK. On account of COVID 19, Mr. Sharma has spent a lot of time in India, which has allowed him to get reintegrated into the Indian Legal System. He deals with all kinds of cases as part of UCOL team and in particular, matters pertaining to immigration to the UK