

A Guide to Settling in The UK

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By **Paul Webb**, 6th December 2021

When people talk about moving to the UK, many people want to apply for “permanent residence” at the start of their UK immigration journey. In most cases, this is not possible – an application for settlement or indefinite leave to enter/remain usually requires a minimum residence period in the UK of between 2 and 5 years depending on the visa category.

The Importance of the Visa Category Selected

It is very important to choose an appropriate visa category which allows you to do what you want to do in the UK, as well as eventually being able to apply for settlement (if that is an objective).

For instance, both the **Skilled Worker** and **Intra-Company Transfer** categories allow individuals to work in the UK; however, only individuals in the Skilled Worker route will be eligible to apply for settlement after 5 years, if they meet all the requirements.

An important requirement is that employers continue to hold a **valid sponsor licence**. Organisations will be aware that a sponsor licence is valid for 4 years, and they will have diarised to renew their sponsor licence. Without a valid sponsor licence, the individual will not be eligible to apply for indefinite leave to remain, and may be unlawfully working.

Absences from the UK

Another vital requirement, not just in the Skilled Worker category but for **most routes eligible for settlement**, is that individuals cannot be absent from the UK for more than 180 days in any rolling 12 month period, during the minimum residence period. There are exceptions which might apply, and some visa categories even allow specific work-related absences to be discounted from the “180 day rule”.

It is also not just the responsibility of Skilled Worker migrants to keep a track of their absences, but sponsors also have a duty to keep a record. In reality, many employers and HR staff already keep a record in the personnel files for each member of staff. In addition, employers are required to confirm in writing to the Home Office, that the individual is still required for work for the foreseeable future, and will be paid the minimum salary.

Are there Visa Categories Where the Minimum Residence Period is Less Than 5 Years?

There are a number of visa categories that allow individuals to apply for settlement in less than 5 years if all the requirements are met, for instance:

Visa Category	Minimum Period of Residence in the UK
Tier 1 (Investor) – £5 million investment	3 years
Tier 1 (Investor) – £10 million investment	2 years
Innovator	3 years
Global Talent (depending on sub-category and endorsing body)	3 years

Is it Possible to Combine Time Spent in Another Visa Category?

Depending on the individual’s current and previous visa categories, it may be possible to combine time spent continuously in the UK, to meet the relevant minimum residence period. For instance, if an individual has spent a continuous period of 5 years in the UK, with 3 years in the **Sole Rep** category, and subsequently 2 years in the Skilled Worker category, then the minimum 5 year residence period is met. However, the same minimum residence period is not met if combining 2 years on a Student visa and 3 years in the Skilled Worker category.

There is also the Long Residence rule which means individuals who have continuously and lawfully lived in the UK for 10 years, can combine all their different UK visas to become eligible to apply for settlement. Under the Long Residence rules, the Home

Office currently state that absences from the UK cannot be more than 540 days.

Conclusion

The rules to become eligible to apply for settlement in the UK will be different for each individual, dependent on their own immigration circumstances. Employers/sponsors should ensure that key dates are diarised to ensure appropriate steps are taken at the correct time, and that good records are kept.

Further information

If you have any questions and/or would like tailored advice on any UK immigration matter, please speak to Dixcart Legal at: advice.uk@dixcart.com or to your usual Dixcart contact.