



Setting up a business in the UK: immigration issues

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UK Immigration Regime

The UK positively welcomes skilled foreign workers. Whilst there are strict immigration rules regulating those who come to work in the UK from abroad, including the US, there are various routes of entry open to such individuals depending on the circumstances. Taking advice on all the available options will ensure workers take the most beneficial route available to them. So whether you are setting up a UK arm of your US company, or opening a new branch in the UK, you need to be aware of the most appropriate way to get your key individuals where they need to be. After all, without them being in place to plant the initial seeds that will grow into your thriving UK business, your business plans may not pan out the way you want them to. Once you are successfully up and running in the UK, you may need to hire foreign workers to fill vacancies. Again, with the correct systems in place, there should be no hindrance to you filling suitable vacancies with overseas individuals. Your workers may eventually want to settle permanently in the UK, or use it as a base for business ventures into Europe. With specialist advice, all this should be perfectly possible.

WALKER MORRIS EXPERIENCE

At Walker Morris we have a dedicated team of immigration specialists who regularly advise international organisations on all areas of business immigration. We have particular experience of working with US companies coming to the UK and wanting to bring their key workers with them.

CASE STUDY

Walker Morris has worked with multinational US-based restaurant chain since they first set foot in the UK. From enabling them to enter the UK and scope the market, to setting up branches and bringing across key employees. Since then, we have worked with them to facilitate business visits for their senior management, as well as advising them in respect of recruiting and retaining non-EU workers.



Set out below are the various immigration phases your company and your workers may need to go through during their time in the UK.

1 SETTING UP A BUSINESS IN THE UK

You've made the commercial decision to enter the thriving UK economic market. You need individuals on the ground to work out the logistics; location, premises, key client base, and the myriad of other issues that need to be considered.

Getting those senior individuals into the UK to lay the groundwork is imperative, and there are a number of options available depending on precisely what they will be doing in the UK. Some of the most common routes of entry are:

- **Representatives of an overseas company:** citizens from the US can apply to enter the UK as a representative of an overseas business if they are the sole representative of the company planning to set up a UK branch. Whilst in the UK, they continue to be employed by your US company and are free to work full time for you. Overseas business representatives can stay in the UK for an initial period of 3 years, which may be extended by 2 years. After being in the UK

for 5 years, they can apply for permission to settle permanently in the UK. They can also bring their families with them.

- **Business visitors:** US citizens employed abroad can come to the UK to undertake specific activities, such as attending meetings and conferences, negotiating and setting up deals, carrying out fact-finding missions to explore potential markets or suppliers and making site visits. All these tasks are likely to be prerequisites to your successful entry into the UK market.

2 NOW YOU ARE SET UP IN THE UK

Once your UK branch is up and running, you need to think about how to recruit the best talent from around the globe into your business. Provided that the job is suitably skilled and paid at an appropriate rate, you are unable to fill the post from within the UK or EEA, and the individual you want to employ meets strict criteria, you should be able to bring overseas workers into the UK to work for you. In order to do this, you will need to register with UK Visas and Immigration as a Licensed Sponsor and adhere to various legal obligations, such as closely monitoring your overseas workforce and reporting issues which arise with them. You will then need to certify that workers you wish to sponsor meet the required criteria, before sponsoring their entry into the UK. We can guide you through all aspects of these processes, from applying for your initial Sponsorship License through to certifying the entry of specific individuals.

Individuals from the US tend to come to the UK to work for established companies under the following visa categories:

- **Tier 2 (General):** applies to overseas workers who are working in skilled posts within your business. They allow workers to stay in the UK for a maximum of 5 years. Applications for extensions can be made, so long as the total period of the stay does not exceed 6 years. This route can lead to permanent settlement within the UK after a period of 5 years.
- **Tier 2 (Intra Company):** if an existing employee of your US company is offered a role with the UK branch, that employee can use the Tier 2 intra-company transfer visa. Like a Tier 2 general worker, the individual will need a registered UK sponsor to work and earn a salary at the appropriate rate. Workers can stay for a maximum of 5 years

Both routes require the individual to work for the organisation that sponsors them; should they decide to move on from your organisation, their new employer will need to make a fresh sponsorship application for them. Families can come to the UK with the worker, and 5 years' residence may lead to the right to stay permanently.

3 INDEFINITE LEAVE TO REMAIN

After 5 years' living and working in the UK, it is generally possible to apply for indefinite leave to remain. We are experienced in advising senior executives on the process involved and the documents required to maximise the chances of a successful application for them and their family members.



4 ENTRY INTO MAINLAND EUROPE

Once your company is established in the UK, you may start to look to use this base to expand into mainland Europe. We can assist you through our contacts on the mainland, seeking to introduce

you to firms we have built close working relationships with over the years in the location you need. They will be able to provide the local expert advice you will require to continue building your company in the EU. Individuals who have gained indefinite leave to remain in the UK and go on to successfully apply for British citizenship can move into Europe to live and work without restriction, as citizens of the EU. Others will need bespoke advice on the immigration rules and visas relevant to the country they are looking to move into, which we can help source through our connections.

WALKER MORRIS

With roots going back for over 120 years, Walker Morris is one of the leading general law firms in the UK with a first class international reputation. With a staff of 500 including 49 partners and over 300 fee earners we are ranked by independent assessors among the top UK law firms for the number of recognised legal specialists in our teams.

We are committed to supporting our clients with the best possible English law advice and to working with our trusted global network of leading law firms to ensure you achieve your international goals. Our approach successfully brings together lawyers who are regularly dealing with international commercial issues combined with many years' experience of advising global operations headquartered in the US, Far East and Asia as their European Counsel.