



GMS Flash Alert

Immigration Edition

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United Kingdom – Statement of Changes to Tiers 1 & 2, EU Settlement Scheme

On 7 March 2019, in a ‘Statement of Changes,’ the U.K. government published a number of modifications to the Immigration Rules¹.

The Statement of Changes introduces changes to the Tier 1 and Tier 2 visa categories as well as the EU Settlement Scheme, which, for the most part, are expected to take effect from 6 April 2019. However, the main impact on Tier 1, as well as the new ‘Start-Up’ and ‘Innovator’ visas, will be coming into force as soon as 29 March 2019. Furthermore, the U.K. government has also announced that some immigration application fees will increase².

Both the Tier 1 (Entrepreneur) and Tier 1 (Graduate Entrepreneur) categories will be replaced by new Start-up and Innovator routes. These applications will require a business idea to be assessed as innovative, viable, and scalable by the relevant endorsing body.

The EU Settlement Scheme will fully open to all European Union (EU), European Economic Area (EEA), and Swiss nationals and will be expanded from the current test phase to include applicants applying under a wider range of EU law rights (for prior coverage, see [GMS Flash Alert 2018-134](#), 19 October 2018).

WHY THIS MATTERS

Notwithstanding uncertainty around the U.K.’s departure from the EU – something that daily is creating headlines – the U.K.’s immigration rules continue to evolve in line with U.K. government policy. Recent changes only have a minor impact on day-to-day applications submitted by employees of global organisations.

However, the increased fees for a small subset of applications will have a financial impact which needs to be factored into future immigration budgets.

The changes to Tier 1 and the EU Settlement Scheme are important to the current and future immigration options for EU nationals, entrepreneurs, and investors in the United Kingdom.

Tier 1 (Investor) Visa Category

The rules are being tightened in terms of what an individual can invest in and how long funds need to be held in order to support U.K. businesses and discourage money laundering through the Tier 1 (Investor) scheme. To achieve this the following changes are being made:

- The investment funds must be held in the applicant's name for two years (this has been extended from 90 days) prior to the date of application.
- The U.K. bank that will hold/is holding the funds has to confirm all required due diligence checks and "Know Your Customer" enquiries have been carried out.
- U.K. government bonds will be excluded as a qualifying investment if the initial application is submitted on or after 29 March 2019.
- The definition for 'active and trading U.K. registered companies' will include 'have at least two U.K.-based employees who are not its directors' if the initial application is granted from 29 March 2019 onwards.
- Intermediary vehicles will need to be regulated by the Financial Conduct Authority and evidence of the final investment destination and how the funds were transferred will be required.
- Further clarification of the term 'the price of investment' reveals it to mean the price the applicant paid for the investment, not the face value.
- Pooled investments which also receive funding from a U.K. or devolved government department or one of its agencies will be permitted.
- The Home Office will have power to refuse an application where there are reasonable grounds to believe that:
 - the funds have been, or will be, transferred internationally by means which are unlawful in any of the countries involved;
 - the character or conduct of the third party providing the funds is not conducive to the public good.
- Entry clearance for the extension application will be changed to two years and four months.

Tier 1 (Entrepreneur) and (Graduate Entrepreneur)

The Tier 1 (Entrepreneur) category will close on 29 March 2019 and the Tier 1 (Graduate Entrepreneur) category will close on 5 July 2019. They will be replaced by the categories of Start-up and Innovator. This will involve a transition as well as new rules as follows:

- There will be transitional rules for people already in the existing Tier 1 categories. These will focus on information to show the genuineness of the business and the jobs created by it.
- For both new categories, the business idea is required to be endorsed by a relevant U.K. body. These bodies include business accelerators, seed competitions, government agencies, and higher education providers. They will assess the business ideas based on whether they are innovative, viable, and scalable.
- Evidence of a maintenance fund will not be required if the application is submitted with a letter from the relevant endorsing body confirming the applicant has been awarded the maintenance fund.

- The English language requirement has been increased to Level B2 as defined in the Council of Europe's Common European framework for language and learning.

Start-up

- This is an expanded version of the Tier 1 (Graduate Entrepreneur) category. However, the applicant does not need to be a graduate in order to apply in this category. This category is also available for applicants seeking to establish a business in the U.K. for the first time.
- Investment funding will not be required.
- Holders of this type of visas will need to have contact with the relevant endorsing body at 6, 12, and 24 months after the application is granted, thus making sure the applicants are continuing to work and can demonstrate reasonable progress with their business ventures.
- Two years' of stay will be granted. This category does not lead directly to settlement in the U.K.; however, applicants can apply to switch into the Innovator category at the end.
- Applicants are eligible to work for other businesses than the one they are establishing/have established. However, the endorsement letter must confirm that the applicants will spend the majority of their working time on developing business ventures.

Innovator

- This category is for more experienced business people.
- It only requires investment funds of £50,000. However, this requirements will be waived for applicants switching from the Start-up category. It can be evidenced either through an endorsement letter or bank statement, etc.
- There can be a 'team' application. However, each team member should have at least £50,000, as the investment funds cannot be shared.
- Three years' of stay will be granted and the visa holder will be eligible to apply for settlement, which requires an endorsement letter. The endorsement for settlement applications will be assessed based on at least two of the following: the investment, innovation, business growth, and job creation.

EU Settlement Scheme

Following the testing phases of the EU Settlement Scheme, the U.K. government has published changes to the rules to allow it to proceed with fully opening the Scheme for resident EU citizens and their family members from 30 March 2019.

The government has published figures that show that at the end of February 2019 more than 150,000 applications had been received of which 135,000 (nearly 90 percent) had already been concluded and 71 percent of those concluded were granted settled status, with the rest granted pre-settled status and none refused.

The main changes from the pilot to the full roll-out are noted below:

- The Scheme will open to resident citizens of Iceland, Liechtenstein, Norway, and Switzerland, and their family members.
- The Scheme will allow applications of specific carers and those with derivative rights to reside.

- The Scheme will further allow applications by EEA/Swiss citizens and certain family members to be made from outside of the U.K. based on previous residence in the United Kingdom.
- Provisions are made for non-EEA/Swiss national family members of EEA/Swiss nationals to apply for entry and stay in the U.K. under the Scheme.
- The changes associated with the EU Settlement Scheme are intended to take effect on 30 March 2019.
- Applications under the Scheme from outside the U.K. are intended to take effect on 9 April 2019.
- Applications under the Scheme from those relying on a 'derivative right' to reside under EU law as the primary carer of a British citizen ('Zambrano carers') are intended to take effect on 1 May 2019.
- Any applications made under the rules before 30 March 2019, will be decided in accordance with the Immigration Rules in force at the time of the application.

Increase to Immigration Fees

From 29 March 2019 onwards, certain applications will be subject to increased fees. The optional super priority service will be increased from £610 to £800 and all visitor visa fees will be increased slightly.

KPMG LLP (U.K.) NOTE

The Statement of Changes was preceded by uncertainty relating to the Tier 1 (Investor) category which was reported to have been suspended by the government on 6 December 2018.³ We welcome the relative clarity of policy provided by these changes and the overall move towards expert assessment of business credibility over financial resources for the entrepreneur categories and its successors.

The changes to the EU Settlement Scheme come amidst great uncertainty over the terms or even fact of departure of the U.K. from the European Union. We could therefore see last minute changes of policy as we get closer to Brexit (now slated for 22 May 2019 or 12 April 2019). However, the overall framework is in line with announced government policy.

FOOTNOTES:

1 For the full Statement of Changes, click [here](#).

2 See "[Policy Paper: Home Office immigration and nationality fees: 29 March 2019](#)."

3 See "Investor visa scheme halted in money laundering crackdown," in the BBC (online), 6 December 2018, at: <https://www.bbc.co.uk/news/uk-46463319>. Please note that this is a 3rd party (non-governmental, non-KPMG) website. Provision of the URL does not represent an endorsement of the website by KPMG LLP (U.K.).

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in the United Kingdom.

The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment and compliance strategies.



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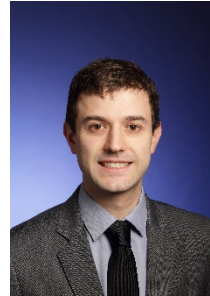
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The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom.

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