

# Entering the UK

To enter the UK, you may need to apply for a visa (also called entry clearance). Most visas for the UK require an application before you travel to the UK. You should always try and get legal advice before submitting an application.

You can find information about visas for the UK on the Home Office website:

[www.gov.uk/browse/visas-immigration](http://www.gov.uk/browse/visas-immigration)

The requirements for visas are becoming increasingly difficult to meet: most require a lot of documentary evidence, large amounts of money, and lengthy probation periods. See also the Toolkit *Family Members* section.

This section explains general grounds of refusal of entry, gives an overview of the main types of visa for entry to the UK, then looks at the immigration health surcharge, and entering the UK and claiming asylum.

If you are an EEA national entering the UK before 31 December 2020, see the Toolkit section *EEA nationals*.

There are "general grounds" under which the Home Office can refuse an application to enter the UK. This includes if you are subject to a deportation order, or are subject to a re-entry ban for other reasons. See Toolkit section *Re-entry Bans*.

Some of the grounds for refusal are quite vague. For example, "failure by a person arriving in the United Kingdom to furnish the Immigration Officer with such information as may be required for the purpose of deciding whether he requires leave to enter and, if so, whether and on what terms leave should be given". Others are more specific. For example: an application may be refused if the applicant has failed to "pay a charge or charges with a total value of at least £500 in accordance with the relevant NHS regulations on charges to overseas visitors." You can find the immigration rules on general grounds of refusal here: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

The right to appeal refusals of visa applications is limited - there is now only the right of appeal for decisions regarding international protection (usually, refugee status or humanitarian protection), human rights applications or EU law applications.

Even if your application is successful, entry clearance officers (the immigration officers

who work at ports of entry) can still refuse to let you enter. For example, you may have successfully applied for a visa ("entry clearance") but an Immigration Officer may refuse to let you enter the UK if they are "satisfied" that false representations were made in your application, or false documents or information were submitted, or you did not disclose important information, or if your circumstances have changed since you applied. See Immigration Rules, section *Refusal of leave to enter in relation to a person in possession of an entry clearance*.

All visas will be time limited and so will need to be renewed if you wish to stay longer. If you do not renew your visa, you will be classified as an **overstayer**. Overstaying is an immigration offence, and the Home Office frequently use "poor immigration history" to refuse applications for leave to remain, and to argue against release from detention.

## Visitor visas

If you want to visit the UK for holiday (tourism or to visit friends/family), business or another type of short stay for **less than six months**, you can apply for a visitor visa. Read more on the UK government website here:

<https://www.gov.uk/browse/visas-immigration/tourist-short-stay-visas>

## Student visas

If you wish to study in the UK for less than six months, you can apply for a visitor visa (see section above).

If you wish to study English in the UK for more than six months but less than 11 months, you can apply for a short-term study visa. Read more here: <https://www.gov.uk/visa-to-study-english>

If you wish to study English in the UK for longer than 11 months, or if you wish to study anything else in the UK for more than 6 months, you will need to apply for a student visa.

You will need to have been offered a place on a course at a licensed institution ("student sponsor"). You will need to be able to prove you can speak, read, write and understand English, and there are specific requirements for how you can demonstrate this. You will need to have enough money to support yourself and pay for your course. You may be able to work during your time as a student in the UK, but generally this is restricted to 20 hours

a week during term time. Read more about student visas here:

<https://www.gov.uk/browse/visas-immigration/student-visas>

## Work visas

If you wish to enter the UK to work, and you do not have the right to work through another type of visa/leave to remain (for example, as a dependant on someone else's visa), you will need to apply for a work or investor visa.

There are short-term visas for specific work such as charity work, creative and sporting work, religious work. These visas usually allow you to work in the UK for a maximum of one or two years. The seasonal worker visa only allows you to work in the UK for six months.

For longer periods of work in the UK, you will generally need to apply for a "Skilled Worker" visa, or a "Health and Care Worker" visa. The Skilled Worker visa has replaced what was the Tier 2 (General) work visa. The Health and Care Worker visa is for medical professionals to work in an eligible job with the NHS, an NHS supplier or in adult social care.

In general, you will need to be able to prove you are qualified for the job that has been offered, that the job fits the criteria of these categories, and the company offering the job is registered as an official sponsor of overseas employees.

Find out about the different rules for the different types of visas here:

<https://www.gov.uk/browse/visas-immigration/work-visas>

## Family visas

If you are applying for a visa to come and live with your spouse/partner who has British citizenship or Indefinite Leave to Remain in the UK, you will usually have to meet income or savings criteria. See Toolkit section on *Family Members*.

If you cannot meet the income requirements for the spouse/partner visa, it is possible to apply for the right to enter or remain in the UK based on your human rights: your right to family and private life in the UK. See Toolkit section on *Human Rights*.

If you want to apply for visa as a (or for a) parent of someone in the UK, you will also need to

meet strict criteria. See Toolkit section on *Family Members*.

If you wish to apply for a visa to join your child in the UK, read the Toolkit section *If You Have Children* section.

## Health surcharge

The government has introduced an “immigration health surcharge” (IHS) as part of some applications for leave to enter/remain in the UK.

All applicants for entry clearance (visas) for **more than six months**, and people already in the UK applying for time-limited leave to remain, are required to pay the charge to cover National Health Service (NHS) healthcare in the UK.

This includes people applying to come to the UK as a worker or student, and people applying for leave to remain under the Family Migration section of the immigration rules (this includes applications based on your family/private life, family members in the UK and long residence in the UK).

You do not need to pay the surcharge if you’re applying from outside the UK for a visitor visa or any visa that lasts six months or less (as long as you’re applying from outside the UK).

You do not need to pay the surcharge if you are applying for indefinite leave to remain (ILR). If you apply for *indefinite* leave to remain and are instead granted a form of *limited* leave to remain by the Home Office, you are likely to be asked to pay the surcharge. You do not need to pay the surcharge if you are applying for Pre-Settled or Settled Status as an EEA national.

You currently do not need to pay the surcharge if you are applying for a Health and Care visa. You do not need to pay the surcharge if you are a child under 18 who is in local authority care. You do not have to pay if you are applying to stay in the UK as a victim of domestic abuse; or you are an identified victim of trafficking. You do not need to pay the surcharge if you are an asylum seeker or applying for humanitarian protection, or other protection under Article 3 of the European Convention on Human Rights (ECHR). Find a full list of exemptions to the surcharge here:

<http://www.legislation.gov.uk/ukxi/2015/792/schedule/2/made>

The charge is £470 per year for students and those under 18 years old, and **£624 per year**

**for all other types of application.** The charge is payable for each dependant as well as the main applicant. You have pay the total amount for the length of visa you are applying for, upfront. For example, if you are applying for a visa that is valid for two years, you would need to pay £1248 with your application. You pay the surcharge via the government's surcharge website.

If you can prove you are destitute, you can apply for a fee waiver on the basis that not getting a fee waiver would mean you couldn't exercise your human rights under the ECHR. You can apply for a fee waiver of just the Immigration Health Surcharge if you are able to pay the fee for making the immigration/human rights application; or a fee waiver for both if you are unable to pay either.

To apply for a fee waiver, you need to apply online here: <https://visas-immigration.service.gov.uk/product/fee-waiver>

Read more in the Home Office's fee waiver policy here:

<https://www.gov.uk/government/publications/applications-for-a-fee-waiver-and-refunds>

If you are required to pay the surcharge as part of your application, and your application is then refused, the health surcharge is refunded.

## Entering the UK and claiming asylum

There is no visa for claiming asylum. Once you make it to the UK, you claim asylum on arrival at the port of entry, or at the Home Office in Croydon. See Toolkit section *Claiming Asylum*.

### False passports

Some people who come to the UK to seek asylum use their own passport, but for some this is not possible because they do not have one and to ask for one, or to travel on their own passport, would put them in danger.

**Article 31 of the Refugee Convention** acknowledges the danger for some people of using a real passport in their own name, and states that asylum seekers should not be punished for this if they have a good reason for using false documents.

The "Article 31" principle is part of UK law as Section 31 of the 1999 Immigration and Asylum Act. Section 31 provides that it is a defence for someone charged with "*document*

*offences*”, if they can demonstrate that they have:

- come to the UK directly from a country where their life or freedom was threatened
- presented themselves to the authorities in the UK without delay
- showed good cause for their illegal entry or presence, and
- made a claim for asylum as soon as was reasonably practicable after their arrival in the UK.

People prosecuted by the UK government for the use of a false passport may not be aware of the statutory defence above. If you are represented by a lawyer who specialises in criminal law, and who does not know this Section 31 defence, the lawyer may wrongly advise you to plead guilty: the evidence of the crime is clearly there, and pleading guilty should lead to a shorter sentence. You should, however, be given advice about the Section 31 defence (which allows you to plead not guilty).

If convicted, you may serve a prison sentence and the criminal conviction for using a false passport may be used as a reason to refuse some applications for status – including indefinite leave to remain – and can cause problems when applying for work.

**There are legal options, even after a criminal sentence has been given, that may help you if you have been prosecuted for use of a false passport. One of these is the Criminal Cases Review Commission (CCRC).**

The CCRC was set up to deal with suspected miscarriages of justice. It has reviewed a number of convictions relating to offences by asylum seekers/refugees connected to their entry to the UK. In most of these cases, the applicants have been advised to plead guilty, and were not advised that they may have a defence. The CCRC has the power to refer convictions (and sentences) to the appropriate appeal court if it determines there is a real possibility that the conviction will be quashed.

For more information on this process, contact the CCRC on 0121 233 1473 or get an application form on their website: [www.ccrcc.gov.uk/making-application/how-to-apply](http://www.ccrcc.gov.uk/making-application/how-to-apply)  
The CCRC can deal with cases in England, Wales and Northern Ireland. For cases in Scotland, contact the Scottish CCRC on 0141 2707030 or see their website for more information: [www.sccrc.org.uk](http://www.sccrc.org.uk)