

NOTE: This version was updated on 18 January 2024

There may be an updated version on the website at righttoremain.org.uk/toolkit

Illegal Migration Act 2023

A new law called *The Illegal Migration Act 2023* has recently come into force. The Act has brought about significant changes to the UK asylum and immigration system for people who arrive in the UK on or after 20 July 2023. We are in the process of updating the Toolkit to reflect these developments. For now, please be aware that some of the information in the Toolkit may be out-of-date for people who arrived in the UK after that date. To stay up to date with any changes to the Toolkit, please sign up to our newsletter.

Visas: Apply for permission to enter or stay in the UK

To enter the UK, you may need to apply for a visa. A visa can also be called “entry clearance”. Most visas for the UK require an application before you travel to the UK.

It is a good idea to try to get legal advice before submitting a visa application, as the process can be complicated. However, you can also use this information to help you.

All visas are time limited. This means you will need to renew your visa if you wish to stay longer. If you do not or cannot renew your visa, you will be classified as an **overstayer**. Overstaying is an immigration offence, and the Home Office frequently uses “poor immigration history” as a reason to refuse applications for leave to remain.

It is important to note that there is no visa for claiming asylum. To find out about entering the UK and claiming asylum, read our page on ‘Entering the UK to claim asylum’.

Read this page for information about the different types of visas to enable entry to the UK. On this page you will find the following information:

- Visitor Visas
- Student Visas
- How to apply for a Student Visa from outside the UK
- How to apply for a Student Visa from inside the UK
- Bringing dependants with you on a Student Visa
- Switching from Student to Work Visa
- What happens if my circumstances change?
- Graduate Visa

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- Dependants on the Graduate route
- Work Visa
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- Immigration Health Surcharge
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- Fee waivers
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- Grounds of refusal of visa
- Criminality grounds of refusal
- Re-entry bans: can I return to the UK after being removed or deported?
- If your visa application is refused

Visitor visas

If you want to visit the UK for a 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 about how to apply for one on the UK government website here.

There are some nationalities that do not require a visa to travel to the UK. You can check if this applies to you on the government website here: <https://www.gov.uk/check-uk-visa>

Student visas

If you want to study in the UK for less than six months, you can apply for a Visitor Visa (see section above).

If you want 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 want to study English in the UK for longer than 11 months, or if you want to study anything else in the UK for more than 6 months, you will need to apply for a Student Visa. The Student Visa has replaced the Tier 4 (General) Student Visa.

You can apply for a Student Visa if you are over 16, and have been offered a place on a course at a licensed institution ("student sponsor"). You will need to be able to prove that you can speak, read, write and understand English, and there are specific requirements for how you can demonstrate this. For more information about the English language requirements,

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see advice from UKCISA here: <https://www.ukcisa.org.uk/Information--Advice/Visas-and-Immigration/Student-route-eligibility-and-requirements#layer-3004>

How to apply for a Student Visa from outside the UK

Student Visas can only be issued for certain courses. The course must meet certain requirements. For information on the types of courses and their requirements, see the resources by the organisation UKCISA.

Your education provider will give you a Confirmation of Acceptance for Studies (CAS) which you will need to use to apply for your visa. Check your sponsor's website for advice about making a Student Visa application.

If you have a student loan or financial sponsorship, you will need to provide information about this. You need to show your CAS reference number, or a letter from your sponsor with the date, their name and contact details, length of sponsorship, and the amount of money that is being given. For student loans you need to show a loan letter dated no more than 6 months before the date of application, with details of the loan.

If you are using your own money, you will need to show you 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. If you are granted permission to stay on a Student Visa, you will not be able to access public funds. This means you will not be able to access benefits when you are in the UK. For more information about financial evidence you need to provide for your Student Visa application, see the government website here: <https://www.gov.uk/guidance/financial-evidence-for-student-and-child-student-route-applicants>

How to apply for a Student Visa from inside the UK

You can apply for a Student Visa from within the UK if you have any type of immigration permission except:

- Visitor
- Short-term student
- Parent of a child student
- Seasonal worker
- Domestic workers in a private household
- Permission outside the Immigration Rules
- It is important that you do not apply for a Student Visa if you are on any of these types of leave in the UK, otherwise the Home Office will treat your application as invalid.

For information about how to apply for a Student Visa from within the UK, see the information from UKCISA.

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Bringing dependents with you on Student Visa

Dependants means your partner, or your child(ren). You will need to provide evidence of your relationship with your dependants when you apply. Your parent, brother, sister or other relative does not count as a dependant.

On 17 July 2023, the Immigration Rules were changed so that students with places on taught Masters degrees will no longer be able to bring dependants to the UK.

If your course started/starts on or after 1 January 2024, you will now only be able to bring dependants if you are studying for a PHD or other doctoral course, if you are on a government sponsored scheme, or if your post-graduate course is confirmed as being a 'research-based higher degree'.

A 'research-based higher degree' means a postgraduate programme which includes a research element, and requirement to produce original work, as opposed to a taught postgraduate course.

If you are the dependent of a student already in the UK, you can apply to extend your leave. Read more about dependants on student visas here: <https://www.gov.uk/student-visa/family-members>

Switching from a Student Visa to a Work Visa

On 17 July 2023, the Home Office announced changes to the process of switching from a Student to a Work Visa when you are in the UK.

If you are on a Student Visa, and you would like to switch onto a Work Visa after your studies, you can now only do so if:

- you have completed your course of study
- if you have completed at least 24 months of a PhD.

In order to show this, you will need to provide an official transcript or letter from the institution confirming you have completed the course.

You will also need to meet similar requirements if you want to switch onto being the dependant partner of someone else already on a work route. This means that in practice it is difficult for partners to transition to a work route from within the UK if one of you has not completed your course.

What happens if my circumstances change?

There may be cases in which you arrive into the UK on a Student Visa, but then your circumstances in your home country or in your personal life change and you need to claim asylum.

If this happens to you, have a read of our Toolkit page on the process of claiming asylum.

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Claiming asylum on a Student Visa may affect your studies. For example, you may be unable to access your bank account to continue paying your course fees.

If you claim asylum and need asylum support, you might be dispersed away to a different area of the UK which might make travelling to your university to continue your studies difficult.

Sometimes people are allowed to keep their right to work from their Student Visa after claiming asylum, some are not.

For more information about this process, see the Displaced Student website here: <https://www.displacedstudent.org.uk/> or contact Refugee Education UK.

Graduate visa

After successfully completing your course, you can switch to a Graduate Visa to stay in the UK. When you apply for a Graduate Visa, you must:

- be in the UK,
- have completed your course, and
- still have valid Student Visa permission.
- You can travel and re-enter the UK on your student visa before you apply under the Graduate route.

In order to apply for a Graduate Visa, you need to apply online. You will need to pay the application fee and the Immigration Health Surcharge (see information below).

Once you have applied for your Graduate Visa, your permission to stay in the UK will automatically be extended (this means made longer). This is because of something called Section 3c Leave which you can read about here: <https://righttoremain.org.uk/toolkit/10-year-route-to-indefinite-leave-to-remain/#section3cleave>

If you are successful in your application for a Graduate Visa, you will be granted 2 years leave in the UK, or 3 years if you have completed a PhD. You will not have access to public funds. In this time, you will be able to work and you will not be tied to a specific job or employer.

The Graduate Visa cannot be extended and is not a direct route to settlement, but it may be possible to switch onto a different work route from the Graduate Visa. For example, you may want to find a job that can be sponsored under the Skilled Worker route for when your Graduate Visa expires.

Time spent in the UK under Student and Graduate Visas may also count as time spent in the UK under the 10 year route to settlement.

Read more information about the Graduate Visa on the UKCISA website.

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Dependents on a graduate visa

You can only apply for a dependant to stay with you in the UK on the graduate visa if they were already in the UK on your student visa..

From 1 January 2024, international students in the UK will no longer be able to bring dependents, unless they are on research postgraduate programmes. These new rules apply to courses that start after 1 January 2024.

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 Visa.

Short-term work visas

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 allows you to work in the UK for up to six months, and may mean that you can work in agriculture such as farming.

Do not give a potential employer or sponsor money to make an application for a Seasonal Worker Visa until you know the details of the job you will be doing. Some people are charged huge amounts of money in recruitment fees which they then have to pay back. Try and agree the exact working hours, and costs of the accommodation you will be staying in before you arrive in the UK.

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.

Skilled worker visas

The Skilled Worker Visa has replaced what was the Tier 2 (General) Work Visa. To qualify for the Skilled Worker Visa, you must work for a Home Office-approved UK employer, have a 'certificate of sponsorship' from your employer with information about the job you've been offered. The job you've been offered must be on the list of eligible occupations, and be paid a minimum salary (this depends on the type of work you do). You must be able to show that you can support yourself in the UK, and in addition to the application fee you will have to pay the Immigration Health Surcharge (see section below).

Generally, you should submit your application up to 3 months before you are due to start working in the UK. 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.

There has been a 'genuineness' requirement added for the Skilled Worker Visa for applications submitted on or after 7 August 2023. This means that you have to show that you

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'genuinely intend' and are able to work in the role you have been sponsored to work in. It also means that you must not intend to take employment in any other role other than the one you have been sponsored for.

Health and Social Care 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. To be eligible for the Health and Care Worker Visa, your job must be one of the jobs listed in this list (<https://www.gov.uk/health-care-worker-visa/your-job>) you must have a 'certificate of sponsorship', and be paid a minimum salary. You will need to prove your knowledge of English when you apply, unless you are from this list of countries: <https://www.gov.uk/health-care-worker-visa/knowledge-of-english>

When you apply for a Health and Care Worker Visa, you need to have enough money to pay the application fee and to support yourself when you arrive in the UK. Health and Care Worker Visa applicants do not have to pay Immigration Health Surcharge. See up-to-date information about how much the Health and Care Worker Visa costs here: <https://www.gov.uk/health-care-worker-visa/how-much-it-costs> You may be exempt from these financial requirements if you are already in the UK, or if your employers can cover your costs during your first month in the UK and this is confirmed in your certificate of sponsorship.

In the UK, it is illegal to charge requirement fees. But in other countries, it can happen. This means that some migrants may end up paying recruitment fees in their home country before they arrive in the UK and start working. This can be risky, as it can mean that you get into debt before you arrive in the UK.

Be very wary (this means cautious) of sponsors who are offering to pay your visa fees for you – sometimes sponsors will design contracts with 'repayment clauses' which are designed to trap you in a job to pay off the visa fees. Be wary of any recruitment agencies which say you have to pay the Immigration Health Surcharge, or have other 'hidden' costs.

Make sure you have all the information you need about your job before you leave your home country – remember to ask about your contract, what hours you will be working, where you will be living etc.

Your Health and Care Worker Visa can last up to 5 years before you need to extend it. You'll need to apply to extend or update your visa if it expires or if you change employers or jobs. You cannot switch employers unless you update your visa. After 5 years on this visa, you may be able to apply to settle in the UK (known as making an application for 'indefinite leave to remain'). Read more about that in the Toolkit on our 10 year route page.

Family visas

If you want to live with a family member in the UK for more than 6 months, you will need a Family Visa. You can apply for a family visa to live with your:

- Spouse, or partner

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- Fiancé or proposed civil partner
- Child
- Parent
- Relative who will provide long-term care for you
- Applying for a Family Visa is different from the process of family reunion. If you have refugee status or humanitarian protection, you may be able to bring a family member over as part of family reunion. Read more about that on the Home Office website [here](#), or with these resources from Free Movement and Refugee Legal Support.

If you are applying for a visa to come and live with your spouse/partner who has British citizenship or settled status (such as Indefinite Leave to Remain or settled status under the EUSS), you will usually have to meet income or savings criteria. You will also need to meet eligibility criteria which includes providing evidence of the relationship between you and your partner. You also need to show knowledge of the English language. Read more on the Family Members page of this guide.

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. Read the Human Rights page of the Toolkit.

If you want to apply for a visa as (or for) a parent of someone in the UK, you will also need to meet strict criteria. Read more on the Family Members page of the Toolkit.

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

Adult Dependent Relative Visa

If you are an individual with ongoing care needs (due to age, illness or disability) and require long-term personal care that can only reasonably be provided in the UK by your sponsor (who is a relative with British citizenship or someone who is settled in the UK) you may be able to apply for an Adult Dependant Relative Visa.

If you are applying for an Adult Dependant Relative Visa it is recommended to get legal advice, as many of these are refused.

Read this guide on applying for an Adult Dependant Relative Visa from Free Movement [here](https://freemovement.org.uk/adult-dependent-relative-visas-not-impossible/): <https://freemovement.org.uk/adult-dependent-relative-visas-not-impossible/>

Immigration Health Surcharge

In addition to an application fee for a visa application, there is an extra fee called the Immigration Health Surcharge (IHS) for many visas.

Most applicants for a visa to enter the UK for more than six months, and people already in the UK applying for time-limited leave to remain, are required to pay the Immigration Health Surcharge. This is regardless of whether you use the NHS during your time in the UK.

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From the 6 February 2024, the Immigration Health Surcharge has been increased to £1,035 per person.

People who generally need to pay the IHS include those 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.

Who doesn't have to pay the Immigration Health Surcharge?

You do not need to pay the IHS 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 are applying from outside the UK).

You do not need to pay the IHS if you are applying for indefinite leave to remain. However 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 IHS.

You currently do not need to pay the IHS if:

- you are applying for a Health and Care Visa
- you are a child under 18 who is in local authority care
- you are an identified victim of trafficking
- you are applying to stay in the UK as a victim of domestic abuse
- you are applying for asylum or humanitarian protection, or other protection under Article 3 of the ECHR.

Paying the Immigration Health Surcharge

See the government website for the costs of the IHS. You pay the IHS via the government's surcharge website.

The charge is payable for each dependant as well as the main applicant. You have to 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 full years, you would need to pay double with your application.

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

Fee waivers

Applying for a visa can be extremely expensive. In some situations it is possible to apply for a fee waiver, which means that if you are successful, you can get a visa for free.

You can also apply for a fee waiver for just the IHS if you are able to pay the fee for making your immigration/human rights application. If you cannot afford to pay either the application fee or the IHS, you can apply for a fee waiver for both.

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The sections below explain how to make a fee waiver application for visa applications inside and outside the UK.

Fee waivers for visa applications made inside the UK

If you are applying for a fee waiver for a visa made inside the UK, you need to apply online here. You will be eligible for a fee waiver if:

- You cannot afford the fee
- You are destitute
- You are at risk of being destitute
- Your income is not enough to meet a child's additional needs
- Read more in the Home Office's fee waiver policy here.

For an in depth guide to making a fee waiver application, read our Toolkit page here: <https://righttoremain.org.uk/toolkit/10-year-route-to-indefinite-leave-to-remain/#feewaivers>

Fee waivers for visa applications made outside the UK

It is possible to apply for a fee waiver if you are applying for an entry clearance visa outside of the UK, but only in certain (limited) circumstances. This is if you are applying for a visa on the basis of family or private life and you are applying as:

- The partner of a British citizen or person who is settled in the UK
- The partner of someone who has refugee status in the UK, if you met after your partner arrived in the UK
- The partner or child of a UK citizen who is in the UK armed forces
- The partner or child of someone who is not a UK citizen but has been in the UK armed forces for 4 years

Grounds of refusal

There are 'general grounds' under which the Home Office can refuse a visa. Some of the grounds for refusal are quite vague (this means they are not specific). For example:

"An application for entry clearance, permission to enter or permission to stay must be refused where the applicant's presence in the UK is not conducive to the public good because of their conduct, character, associations or other reasons (including convictions which do not fall within the criminality grounds)".

Other grounds of refusal 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."

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Or, it might be due to non-payment of “litigation debt”, for example if you lost a challenge of a decision in a judicial review.

Some grounds of refusal are to do with the application itself. If you give incorrect details on the application form, or if you produce false documents your visa application will usually be refused. This is the case even if you are not aware that the information or documents you provided are incorrect. Deception is an automatic ground for a refusal. For this reason, it is really important to avoid making a mistake on an immigration form. If you have a minor criminal conviction (such as a motoring conviction), you must declare it.

You can find the full grounds of refusal here: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

Criminality grounds of refusal

There are criminality grounds under which a visa application must be refused, and grounds under which an application may be refused. This means that certain criminal convictions may mean your application is refused.

An application must be refused by the Home Office if you have been convicted of a criminal offence in the UK or overseas for which you received a custodial (this means prison) sentence of 12 months or more, or if you are deemed “a persistent offender who shows a particular disregard for the law” or if you have been convicted of committing a criminal offence, or offences, which caused “serious harm”. Some visas – such as family member visas – do not fall under these rules.

An application may be refused by the Home Office if you have been convicted of a criminal offence and received a custodial sentence of less than 12 months, in the UK or overseas. Your visa application may be refused in cases where there was no prison sentence, where there was an out-of-court settlement, where the Home Office thinks the offence caused ‘serious harm’ or if you are a persistent offender who shows a disregard for the law.

You can find the full grounds of refusal here: <https://www.gov.uk/guidance/immigration-rules/immigration-rules-part-9-grounds-for-refusal>

If you have compelling human rights grounds to be in the UK, you may be able to challenge a refusal (see below).

Re-entry bans

In addition to the grounds of refusal mentioned above, re-entry bans can be applied by the Home Office if you have been forcibly removed or deported from the UK. They can also be applied in some other circumstances where the Home Office say immigration law was breached in a previous attempt to enter or stay in the UK.

Forced removal is when the Home Office removes you from the UK because you don’t have any leave to remain in the UK – if your application to stay in the UK has been refused, you had a visa/leave to remain but it expired, or you never had leave to remain/immigration papers. Deportation has a specific legal meaning in the UK – removal for what the UK Home

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Office calls “the public good”, usually after a criminal conviction. Read more on the Removal/Deportation page of this guide.

Re-entry bans can be 1 year, 2 years, 5 years or 10 years long. The rules for re-entry bans are contained within the immigration rules on grounds of refusal, in the section called “Previous breach of immigration laws grounds”, from section 9.8.1 onwards.

Generally, re-entry to the UK will be refused if the Home Office say that during in your time in the UK, you:

- overstayed (beyond the period of a time-limited visa)
- breached a condition attached to your previous leave
- entered the UK unlawfully
- used deception in an application while in the UK

Unless:

- you overstayed for less than 30 days and you left the UK voluntarily at your own expense where the overstaying began on or after 6 April 2017; or
- you overstayed for less than 90 days and you left the UK voluntarily at your own expense where the overstaying began before 6 April 2017.

Note that if the Home Office decide that you used deception (this means that they think you lied) for an application, you could face a 10-year ban on entering or re-entering the UK.

Aside from re-entry bans, if you were deported from the UK, you will need to apply to set aside your deportation order before an application to enter the UK could be successful.

Where more than one of these breaches has occurred, the breach which leads to the longest period of absence from the UK will be considered.

There are situations in which re-entry bans may not be applied, for example if you were a victim of trafficking; or if your application to enter the UK is a family migration application under the immigration rules “Appendix FM”; or if your application was made under “Appendix EU”. You will also not be subject to re-entry bans if you breached immigration law while you were under 18.

If a re-entry ban is applied to you, and this would breach your human rights, you may be able to challenge it on human rights grounds.

If your visa application is refused

Most refusals of visa applications do not have a right of appeal. If you do not have the right to appeal the decision, you may be able to ask for an administrative review of the decision (except if you have applied for a visitor visa).

If the application involves your human rights (your right to family and private life) you may be able to appeal the refusal. Read more about appeals in the Appeals page of this guide.

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If you cannot appeal or ask for a review of the decision, you may wish to consider making a new application (with different, stronger evidence).

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.

Now read: after a refusal page: <https://righttoremain.org.uk/toolkit/imm-refusal/>