Applying for Indefinite Leave to Remain in the UK by John Bregar

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Indefinite leave to Remain is the right the live in the UK indefinitely, with no time restrictions or limits on employment or business activity. This immigration category is different from the right of abode, as an application has to be made to the UK Border Agency, in order to be granted there are a number of ways that a person can qualify, depending on the circumstances of the case.

When an application for Indefinite leave to Remain has been granted, this gives the person the right to live in the UK without requiring a separate visa. The term is also sometimes referred to as â€˜settlementâ€™ or â€˜permanent residenceâ€™.

Having Indefinite Leave to Remain is a significant achievement to most people. It demonstrates that the person has made a commitment to the UK and is no longer subject to immigration control; they can move to and from the UK without requiring a separate visa to do so (however it can be lost if the person is absent from the UK for a period of two years or more). Indefinite Leave to Remain is also one of the qualifying criteria that must be met if the person wants to become a British Citizen (naturalisation).

The requirements differ, depending on which basis an application has been made. Some of the more common routes to Indefinite Leave to Remain are on the basis of:

â€¢ Employment (Work Permit, Tier 2, Tier 1 General)

â€¢ Self-employment (HSMP, Tier 1 General)

â€¢ Long residence

â€¢ Marriage / Civil Partnership / Unmarried partners

â€¢ Ancestry

â€¢ Investment (Tier 1 Investor)

â€¢ Other UK business activity (Tier 1 Entrepreneur)

However Indefinite Leave to Remain can be considered on the basis of time spent in the UK in one of the following immigration categories:

â€¢ Writer, composer or artist

â€¢ Self-employed lawyer

â€¢ Businessperson

â€¢ Employment not requiring a work permit:

o Minister of religion, missionary or member of a religious order

o Representative of an overseas newspaper, news agency or broadcasting organisation

o Private servant in a diplomatic household

o Overseas government employee

o Member of the operational ground staff of an overseas-owned airline

o Domestic worker in a private household

â€¢ Parent, grandparent of other dependant relative over the age of 18

â€¢ Victim of domestic violence

â€¢ Retired person of independent means

â€¢ Sole representative of an overseas firm

â€¢ Bereaved partners

â€¢ Turkish nationals applying under the EC association agreements

â€¢ Refugee

â€¢ Discretionary leave to remain

â€¢ Humanitarian protection

â€¢ Exceptional leave to remain

â€¢ Leave outside of the Immigration Rules

When making an application in any of the above categories, the person must ensure that the full criteria have been met. This may include providing evidence of employment activity across the whole time spent in the UK to date, for example.

Other significant deciding criteria will include whether the person has passed the â€˜Life in the UKâ€™ test There are some exceptional cases where this requirement does not have to be met such as an application made on the basis of HSMP Judicial Review or where the applicant is exempt because of age or a physical or mental impairment.

From 6 April 2011 a person who applies for settlement must show that they do not have any unspent convictions (as defined by the Rehabilitation of Offenders Act 1974). This is an additional requirement for settlement in all immigration routes. If an applicant or their dependants have an unspent conviction at the time of application, the case would be refused.A conviction becomes 'spent' after a specified rehabilitation period. This time depends on the period that applies to the sentence imposed and the age of the offender at thetime of conviction. The rehabilitation period for a sentence passed on a person whowas under 18 years of age on the date of their conviction, is in general half of theapplicable period when someone is over 18.

If you are considering making an application for Indefinite Leave to Remain, it is recommended that you seek professional advice at an early stage, to ensure that your case is fully supported and given the best chance for success. An experienced legal representative has a vast range of experience and knowledge in this specialist area of law, which will give you peace of mind.

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Permits2Work is the leading UK immigration specialist, helping you with any visa application, including a Indefinite leave to Remain .

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