

Frontier Workers

Who is a Frontier Worker?

- The Home Office has created the concept of ‘frontier workers’ following the UK leaving the EU.
- Frontier workers are EU nationals (including Norway, Iceland and Liechtenstein) who live outside the UK but work anywhere in the UK. They can be employed, self-employed or have retained rights of residence.
- Non EU Nationals who travel to the UK for work regularly or who are on short term work placements/ secondments are not covered by the Frontier Worker route.
- The rights of frontier workers are set out in detail in the Citizens’ Rights (Frontier Workers) EU Exit) Regulations 2020 (“the Regulations”)
- Frontier workers cannot be ‘primarily resident’ in the UK.
 - A person is considered as not being primarily resident in the UK if they have been present in the UK for less than 180 days in the last 12 months; or
 - They have returned to the country of residence at least
 - Once in the last six months; or
 - Twice in the last 12 months

Applying for a frontier worker permit

- If you are already a frontier worker and were working in the UK prior to the 1st January 2021, you will be able to continue as a frontier worker but you **MUST** hold a frontier worker permit by 1st July 2021 in order to continue entering the UK after this date.
 - We do not know how long the Home Office is taking to issue these permits and therefore our advice is to apply as soon as possible, to try and prevent any delay in obtaining one by 1st July 2021.
 - Until 1st July 2021 you will be able to continue to enter the UK using your valid passport or national identity card
- In order to apply for a frontier permit the applicant must show a valid passport or national ID card and evidence of genuine and effective employment or self-employment in the UK.
- The applications are free of charge and can be submitted from inside or outside the UK. The application process is online. You can also apply using the UK Immigration: ID Check app on a smartphone, provided your passport or National ID card has a biometric chip.
- The application form is available here: <https://www.gov.uk/frontier-worker-permit/apply>

Family members

- Family members cannot be dependent on frontier worker permit holders but they can (if eligible) apply for an EUSS family permit, pre-settled or settled status under the EU Settlement Scheme.
- In order for family members to apply for pre-settled or settled status then they would have to show that they have been present in the UK at least once before 31 December 2021. They must also have been a family member of the EU national before 31st December 2020.
- Pre-settled status will be lost if the individual is absent from the UK continuously for more than two years, settled status will be lost if they are absent from the UK continuously for more than five years.
- Applications for pre-settled or settled status must be made by 30 June 2021.

Eligibility for a frontier worker permit and validity

- Frontier worker permits will be valid for 5 years if the applicant meets the eligibility criteria as a current worker. Current workers are:
 - EEA Nationals
 - Not primarily resident in the UK
 - Either:
 - A worker in the UK
 - Self-employed in the UK
- Frontier worker permits will be valid for 2 years if they are a person with retained worker status, namely:
 - is temporarily unable to work as the result of an illness or accident;
 - is in duly recorded involuntary unemployment after having been employed in the United Kingdom for at least one year (provided they are continuing to seek employment or self-employment);
 - is in duly recorded involuntary unemployment after having been employed in the United Kingdom for less than one year, provided they continue to seek employment or self-employment;
 - is in involuntary unemployment and has embarked on vocational training;
 - has voluntarily ceased working and has embarked on vocational training that is related to the person's previous employment; or
 - is temporarily unable to work due to pregnancy or childbirth, provided the person continues to seek employment or self-employment 12 months after ceasing work and thereafter.
- A person who was working in the UK prior to the pandemic who then returned to their home country to work remotely because of the lockdowns will not be considered a frontier worker.

Suitability requirements for frontier workers

- A frontier worker permit application may be refused in accordance with the grounds set out in the Regulations:
 - on grounds of public policy, public security or public health
 - on the ground the decision is conducive to the public good
 - on grounds of misuse of rights

Appeal and administrative review

- An applicant can appeal to the First Tier Tribunal (Immigration and Asylum Chamber) a refusal to issue a frontier worker permit on the grounds that it breaches the Withdrawal Agreement or the Regulations
- An applicant can apply for administrative review if their application was refused on eligibility grounds on the basis that they believe an error has been made

Covid 19

- There are some concessions made for applicants who may not meet all eligibility requirements because they have been unable to travel in/out of the UK because of Covid. These concessions are convoluted and may be subject to change. It is recommended that legal advice is sought if you think a concession may apply to you.

Further guidance

Further guidance on frontier workers is available here:

<https://www.gov.uk/government/publications/frontier-worker-permit-for-eu-citizens>

<https://www.gov.uk/government/publications/frontier-worker-permit-scheme-caseworker-guidance>

<https://www.legislation.gov.uk/uksi/2020/1213/made>

Transnational workers – non EU nationals

- Non-EEA nationals are not eligible to apply for frontier worker permits.
- Alternative routes for non-EEA nationals who wish to come to the UK for work or study purposes are available, including:
 - Skilled workers (formerly 'Tier 2')
 - Visitors/academic visitors
 - Global Talent visas
- These visa routes all have their own requirements and fees. We have set out below a very brief outline but further advice should be sought if considering an application under one of these routes.

Skilled workers

- The skilled worker visa replaces the old Tier 2 work visa
- Following Brexit, EEA nationals who do not have pre or settled status in the UK under the EUSS and who are not frontier workers will also have to apply for skilled worker visas if they wish to work in the UK.
- Skilled workers must have a job offer at RQF Level 3 (equivalent to A-levels)
- The employer must hold a sponsorship licence in order to employ skilled workers
- There is a minimum salary requirement, which varies depending on the job and level of experience. No skilled worker can be paid below £20,480
- Skilled workers can apply to settle in the UK after 5 years
- Family members (spouse, civil partners, unmarried partners and children under 18) can be dependants on skilled workers

Visitors

- Visitors are admitted to the UK for a maximum of 180 days at a time
- EEA nationals will be treated as non-visa nationals, meaning they do not have to apply for a visit visa before arriving in the UK
- Other nationals may require a pre entry clearance to come to the UK as a visitor
- Visitors cannot work or study in the UK, other than on a short course of study of less than 6 months
- Business visitors can enter the UK for business purposes such as attending a meeting, a conference or negotiating a contract
- Academic visitors can enter the UK to take part in a formal exchange arrangement or to carry out research during a sabbatical. Academic visitors can stay in the UK for up to 12 months.

Global Talent visas

- These are available for people who are leaders or potential leaders in one of the following fields:
 - Academia or research
 - Arts and culture
 - Digital technology
- Applicants must obtain an endorsement from an organisation approved by the Home Office, including:
 - Arts Council
 - Tech Nation
 - British Academy
- Applicants must provide evidence to show that they are a leader/potential leader in their field (for example, global publications, awards, international recognition)
- Applicants can apply for settlement after 5 years
- Dependant family members (partner and children) can join the applicant in the UK

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1st March 2021