



# Immigration update for Rugby Union



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# Overview

From 1 December 2020 the Home Office will introduce changes towards a new modified points-based immigration system which intends to simplify and streamline the process of granting immigration permission to non-UK citizen workers, students, entrepreneurs, and investors.

This guidance document seeks to provide an overview of the forthcoming changes to immigration policy that may impact sportspeople (including players, coaching staff etc) in professional and semi-professional leagues within England, including those participating in those leagues on an amateur basis.

The new system will cover both EU and non-EU nations, marking the end of freedom of movement between the UK and the European Union. **This means that from 1 January 2021, EU workers entering after this date will no longer be able to work in the UK unless they have a visa.** They will be treated the same as non-EU citizens.

The various changes and deadlines between December 2020 and June 2021 are set out below:



## Who is covered by the new requirements?

Due to these legislative changes, more sportspeople who enter the UK from 1 January 2020 may require immigration permission to participate in domestic competitions.

Clubs wishing to register players and engage coaches can adopt a simple 2-step approach:

1. **Is the individual a “professional sportsperson”?** The Home Office’s definition of a professional sportsperson can be found [here](#). It is a wide definition that potentially covers professional, semi-professional and amateur players and coaches in various leagues. Please read this definition carefully.
2. **If the answer to (1) is YES, then based on his or her nationality and immigration status, does the individual have the relevant immigration permission to enable them to participate in rugby as a “professional sportsperson”?** The table below summarises the immigration categories that permit an individual to be a professional sportsperson in the UK:

Tier 2 Sportsperson	Tier 5 Sporting Worker	UK Ancestry visa
UK Ancestry dependant visa	Partner visa	Indefinite leave to remain or EU Settled Status
EU Citizens resident in the UK on or before 31 December 2020	British and Irish citizens	Exempt from Immigration Control

Many immigration categories **prohibit** an individual from working as a professional sportsperson. A summary of these categories is set out below:

Visitor visas	Tier 1, 2, 4 and 5 (except Tier 2/5 Sport)	Tier 1, 2, 4 and 5 Dependants
Youth Mobility Scheme	Student or Student dependant visa	Representative of an overseas business
Start Up, Innovator or Global Talent	Skilled Worker	Turkish Worker (ECAA)

## How can professional sportspeople work in the UK?

The changes are being introduced incrementally by the Home Office.

## Up to 30 November 2020

**Tier 2 and Tier 5 visas:** The current Tier 2 Sports person and Tier 5 Creative and Sporting routes remain open to non-EU sportspeople up until 30 November. They will be replaced by new T2 Sports person and T5 Sporting Worker categories on 1 December (see below).

## Up to 31 December 2020

**European Citizens:** EU individuals arriving up to 23.00 on 31 December 2020 can enter the UK using their EU passport without requiring any visa.

**Other routes:** Sportspeople can also work in the UK if they are eligible for one of the following immigration permissions:

- [Ancestry or Ancestry Dependant](#)
- [Family Members of British citizens or non-British citizens who have settlement](#)
- [Settlement \(Indefinite Leave to Remain\)](#)
- [EU Settlement Scheme](#)
- [British Citizenship](#)
- Exempt from immigration control

## After 1 January 2020

**European Citizens:** EU individuals arriving in the UK after 23.00 on 31 December will require a visa to work unless they have been resident in the UK before this time and have applied under the EU Settlement Scheme.

## T2 Sports person and T5 Sporting Worker

On 1 December 2020, the current Tier 2 route will be renamed the T2 Sports person (“**T2**”) and Tier 5 category will be called the T5 Sporting Worker (“**T5**”).

These provisions will apply to non-EU players, coaches and staff **AND** EU players, coaches and staff unless the individual is eligible for an alternative immigration category that permits work as a professional sports person.

## Key changes

It is not currently possible to switch from a Tier 5 category into a Tier 2 category from within the UK (it must be done from outside the UK). This will change on 1 December 2020. Sportspeople will be able to switch from T5 into T2 from within the UK.

This change has two implications in practice that expedite the visa process:

- A sports person will be able to apply to enter the UK on a T5 visa without the delays associated with sitting an English language test overseas. Once in the UK, part-way through the season, the sports person can sit an English test and switch to T2. Once in T2, the sports person can begin accruing residence for indefinite leave to remain.

- A sportsperson can apply for a T5 visa in any visa application centre overseas. The process is not confined to the sportsperson's country of nationality or residence. This means a sportsperson can apply for a T5 visa from application centres such as in France (if they have permission to visit France) which offer 24-hour and other flexible application services not provided at other centres worldwide. Once in the UK, a T2 application can be made to extend the sportsperson's permission to remain in the country to accommodate the balance of the contract and/or any contract extension.

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## What remains unchanged

- The sportsperson coming to the UK must have a governing body endorsement. For detailed information on the RFU's GBE criteria, please click [here](#).
- The club must have a Home Office sponsor licence. The Home Office will transfer all existing sponsor licences automatically to accommodate the new routes.
- There is no limit on the number of times a sportsperson can apply for a T2 or a T5 visa. There are no caps on the number of sportspeople a club can sponsor.
- A T2 sportsperson can apply for a visa for a duration of up to 3 years or the length of the contract (the shortest). A T5 sportsperson can apply for a 12-month visa or the length of the contract (the shortest).
- A visa application made outside the UK cannot be presented more than 3 months before the contractual start date. The sportsperson cannot enter the UK more than 14 days before the contractual start date.

- A sportsperson will not be able to spend more than six consecutive years under this category in the UK. They must apply for indefinite leave to remain (ILR) between years 5 and 6.
- Spending five successive years under the T2 Sportsperson (and/or combined with time spent under the existing Tier 2 route) category will count as residence that qualifies towards ILR.
- Sportspeople who change clubs must make a new application under the appropriate immigration route and be granted the new visa before commencing employment with the new employer.<sup>1</sup>

A summary of both routes can be found below.

## Eligibility and key points

	T2	T5
The club must have a Home Office sponsor licence	✓	✓
The club must have a valid Governing Body endorsement for each professional sportsperson	✓	✓
English language requirement	✓	✗
<a href="#">Specific nationals</a> require TB screening	✓	✓
Specific <a href="#">nationals</a> require Police registration after entry to the UK	✓	✓
A financial requirement (the club can certify a sportsperson's through its sponsorship)	✓	✓
Family member dependants can apply (spouse/partner, children)	✓	✓
Time spent counts as residence towards settlement	✓	✗
A visa is granted for the period of the contract or 3 years (the shortest)	✓	✗
Leave is granted for the period of the contract or a maximum period of 12 months (the shortest)	✗	✓

T2 is the preferred immigration route for players and coaches since the category permits the immediate accrual of time towards future settlement (indefinite leave to remain).

<sup>1</sup> Due to Covid-19, there are at the time of writing concessions in place that allow individuals to commence work while a visa extension application is being processed. However, guidance is subject to change without warning and so please seek advice.

Although T5 offers a quicker process by which to bring a sportsperson to the UK (since there is no English language requirement) time spent under this route will not accrue towards any eventual settlement application.

However, unlike the current system, the new T5 route will permit sportspeople to switch into the T2 category from within the UK provided the sportsperson meets the T2 requirements.

## 3-month temporary T5 visa

Under current regulations, a sportsperson entering the UK with a short-term contract may apply for a visa at the UK border, without having to undergo an overseas process, providing the following conditions are met:

- The sportsperson is not a visa national\*
- The contract, GBE and Certificate of Sponsorship are for a period not exceeding 3 months

\*Common rugby union sportspeople who are non-visa nationals include citizens of Australia, New Zealand, Canada, Argentina, USA, Tonga and Samoa (EU citizens will be classified as non-visa nationals from 1 January 2021). It excludes South Africa, Fiji, Russia, and Georgia.

## Sponsorship, sponsor duties and right to work checks

To date, clubs have required a Home Office sponsor licence to act as an immigration sponsor for overseas players from outside the EU only.

From 1<sup>st</sup> January 2021, the Point Based Immigration Scheme will incorporate EU/EEA and Swiss citizens who are not already resident in the UK by 31 December 2020.

If not already registered, a Club recruiting and sponsoring EU sportspeople will need to apply for a sponsor licence from the Home Office. Clubs with existing sponsor licences will have then transferred to the new system automatically by the Home Office.

Sponsor licences will continue to be valid for 4 years which will be renewable thereafter.

## A summary of sponsorship duties owed by sponsoring clubs

### *Record keeping for each sponsored sportsperson*

- Records of rights to work and diarising the expiry of any temporary work permission
- Current and historical contact details
- Absence records
- Governing body endorsement, contract, and NI number
- In the event a sportsperson requiring a visa submits an extension from within the UK, the sponsoring club should conduct a right to work check if that extension application is not granted before the expiry of the previous visa.

## Reporting

- Any change to club ownership
- Changes to a sportsperson's terms and conditions including ending contracts prematurely
- Changes to a sportsperson's immigration status from a sponsored to a non-sponsored route
- Systems for identifying and notifying UKVI of reportable instances.

## Home Office audit visits

The Home Office conduct audit visits to ensure that they are adhering to their sponsor duties.

### *What happens during a visit?*

- The key personnel should attend and will be interviewed
- Staff files will be checked to ensure records have been kept and reports have been made
- Players/coaches may be interviewed

## Summary checklist

- Check that all sportspeople are employed lawfully regardless of nationality
- Obtain copies of visas before the contract commencement date
- Keep copies of all visas including the contract, GBE and NI registration
- Diarise visa expiry dates so that appropriate action can be taken ahead of time
- Ensure the sponsor duties (above) have been discharged.

# UK Ancestry & Ancestry dependants

The UK Ancestry route will not be affected by the new rules in 2021.

## Eligibility

- [Commonwealth citizens](#) aged 17 or over with a UK-born grandparent
- An intention to work in the UK<sup>2</sup>
- Specific [nationals](#) require TB screening
- Specific [nationals](#) require Police registration after entry to the UK
- Family member dependants can apply (spouse/partner, children)
- Maintenance requirement

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<sup>2</sup> Where the sportsperson's partner has the UK ancestry links, the partner will act as the main visa holder, meaning they will need to meet the requirements listed above. The sportsperson will come to the UK as the dependant of their spouse. In these circumstances the spouse must be able to evidence their intention to work. This will be required for the initial application for the UK Ancestry visa, any subsequent extension from the UK and any future settlement (ILR) application.



## Key points

- Five-year visa which must be applied for outside the UK
- There are no work restrictions
- The GBE criteria do not need to be met
- No English language requirement
- Time spent does count as 5-year residence towards settlement
- A sponsor licence requirement does not apply

## Family route (Partner visa)

A partner can be a spouse or civil partner. It can also be an unmarried partner living together in a relationship akin to a marriage or civil partnership for at least 2 years prior to making the visa application. The Family route will not generally be affected by the new rules in 2021.

### Eligibility

- A relationship with a British Citizen or a person with settlement (including indefinite leave to remain) in the UK.
- English language
- Financial (income or cash savings) requirement<sup>3</sup>
- Specific [nationals](#) require TB screening
- Specific [nationals](#) require Police registration after entry to the UK

## Key points

- 30-month visa (extendable from within the UK in 30-month periods)
- No work restrictions
- The GBE criteria do not need to be met
- Time spent does count as residence towards settlement
- A sponsor licence requirement does not apply

## Settlement (indefinite leave to remain)

In most cases a sportsperson will qualify for settlement via one of two ways.

### Eligibility – general criteria

- 5 years' continuous residence under:
  - the Tier 2 and/or the T2 categories
  - the UK Ancestry category
  - the Family Route

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<sup>3</sup> For entry applications submitted from overseas, only the income of the British Citizen counts. For in-country applications, the income of both the visa applicant and/or the British Citizen can be considered.

- A Life in the UK Test must be passed
- An English language requirement applies
- The sportsperson does not exceed the maximum number of absences from the UK
- Conduct must not be captured by general grounds of refusal on criminality or failure to comply with immigration conditions.

## Eligibility – additional immigration route-specific criteria

- Tier 2/T2 Sportsperson:
  - Minimum salary thresholds apply
  - The sportsperson is still required for the employment in question (the application must be submitted before the end of the contract)
- UK Ancestry:
  - Evidence of work over the 5-year period
- Family:
  - Relationship requirement
  - Financial requirement

NOTE: ILR will not reverse the need for a Schengen visa and/or a player's foreign status

There is also a long residence category whereby an individual can apply to remain indefinitely providing they have maintained a minimum of 10 consecutive years of legal immigration status in the UK.

## Rights under EU law including the EU Settlement Scheme (EUSS)

Freedom of movement between the UK and EU will end on 31 December 2020. Immigration documents previously issued under EU law will be phased out and eventually become invalid.

EU/EEA or Swiss citizens and their family members already residing in the UK by that date must apply for a status under the EU Settlement Scheme before 30 June 2021.

The Scheme has been introduced to provide EU citizens and their family members with an immigration status that will allow them to continue living, working, studying and accessing services in the UK in a similar way as they do now.

### Eligibility

- Resident in the UK by no later than 11pm on 31 December 2020
- Evidence of EU/EEA or Swiss nationality or in the case of non-EU family members, relationship with an EU citizen
- Evidence of UK residence
- Suitability requirements<sup>4</sup>

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<sup>4</sup> The Home Office will conduct criminal background checks on the applicant against UK and overseas crime databases. In the event that criminal convictions and/or sentences imposed as a result of such convictions meet certain thresholds the applicant may be referred to Immigration

Applicants to the EU Settlement Scheme will be granted one of two statuses:

## Settled status (indefinite leave to remain) – key points

- Granted to those who have at least 5 years' continuous residence<sup>5</sup> in the UK with no supervening event<sup>6</sup>
- Permits the holder to remain in the UK indefinitely
- Permits access to live, work, study and access to services and public funds in much the same way as a UK national
- Status is retained provided any UK absence does not exceed 5 years.

## Pre-settled status (limited leave to remain) – key points

- Granted to those who have a continuous residence of less than 5 years at the time of application
- Valid for 5 years from the date of being granted
- Pre-settled status holder must meet the requirements for and apply for settled status (ILR) before the expiry of their pre-settled status
- Absences from the UK must be kept to no more than 6 months in any 12-month qualifying period to meet the requirements for settled status.

## Family members of EU citizens

**EU family members** should apply to the EU Settlement Scheme in their own right. All EU citizens who are eligible for a status under the scheme must apply by the relevant deadline. This includes children under 21 years old.

**Non-EU family members**<sup>7</sup> should apply based on their relationship (or in some cases a previous relationship) with an EU citizen.

**Children or grandchildren** are defined as those who are under 21 years old at the date of application or if 21 years old or over, being financially, social or health grounds.

## British Citizenship

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Enforcement who will consider whether the applicant should be deported or excluded from the UK. Such thresholds are typically connected to serious violent crimes, drug or sexual offences and/or persistent offences.

<sup>5</sup> Continuous residence is defined as physically residing in the UK for a minimum of 6 months in any 12-month qualifying period. Whilst it is most common to apply the 5-year requirement to the most recent 5 years leading up to date of application, any 5-year period in time can be counted if there has been no supervening event since completion of that 5-years period (see below)

<sup>6</sup> A supervening event is defined as i) the applicant has not been absent from the UK for more than 5 years since completing a period of continuous UK residence and/or ii) the applicant has had no active deportation or exclusion actions against them from the UK or Islands either under EEA or UK immigration regulations.

<sup>7</sup> Eligible Non-EU family members include spouses and civil partners, parents, grandparents, children and grandchildren under 21 years old or in some cases an extended family member who is dependent on the EU citizen or their spouse/civil partner.

Becoming a British citizen is a personal choice. A sportsperson with indefinite leave to remain (ILR) will already enjoy restriction-free immigration status in the UK. Those considering becoming a British citizen should first check with their home country to find out whether dual nationality can be held. Some countries do not permit dual nationality.

## The benefits of holding British citizenship

- Ability to leave the UK for an indefinite period (ILR lapses after 2 years' absence from the UK or 5 years' absence for those with settled status)
- Sportspeople can enjoy visa-free travel to areas which permit British citizens to enter without a visa
- Ability to vote in UK general elections

## Eligibility (adults)

- Good character
- An intention to continue living in the UK (consideration may be given to any intentions to join a non-UK club)
- English language and Life in the UK Test requirements
- Residential requirements:
  - Presence in the UK for at least 5 years
  - Present in the UK 5 years before date of the application being submitted
  - Absences from the UK not exceeding 450 days during the 5-year period
  - Absences from the UK not exceeding 90 days during the final 12 months of the 5- year period
  - Indefinite leave to remain held for at least 12 months (unless married to a British Citizen)
  - Compliant with UK immigration at all times

Successful applicants must attend a citizenship ceremony.

## Business visitor visa (Sport)

This type visitor visa is designed for short stays in the UK to undertake specific activities.

## Eligibility (permitted activities)

- Take part in a sports tournament or sports event
- Make personal appearances and take part in promotional activities
- Take part in trials provided they are not in front of a paying audience
- Take part in short unpaid periods of training
- Join an amateur team or club to gain experience in a particular sport.

## Key Points

- In most cases visitor visas will be issued for up to 6 months.
- It cannot be extended, does not lead to settlement, and does not permit dependants.

## Schengen visa

Specific nationals require a visa to visit the European Schengen zone to participate in tournaments. An application must be presented at the Embassy representing the country which is visited (if the visit involves two countries or more, apply at the Embassy of the country which is visited first).

### Eligibility

- Minimum 90 days remaining on the applicant's passport AND on the applicant's UK visa
- The passport must not be older than 10 years and be in good condition, containing 2 blank adjacent pages
- Applications can only be presented within 3 months of the visit date

### Supporting documents

- Passport – current and any previous passports
- BRP (if one has been issued)
- Flight and hotel bookings
- Invite from host club, governing body or competition organiser
- Employment documents – contract and cover letter
- Insurance policy
- HMRC Form A1
- Photographs
- In some cases: 3 most recent wage slips and corresponding bank statements

An individual holding indefinite leave to remain in the UK may still require Schengen visa to travel to Europe.

## Irish Business visas

The Republic of Ireland is not in the Schengen zone meaning travel to Ireland will require separate immigration clearance. The application process involves an online application supported by physical attendance at the Irish Embassy.

### Supporting documents

- Passport
- BRP (if one has been issued)
- Flight and hotel bookings
- Invite from host club, governing body or competition organiser
- Employment documents – contract and cover letter
- Insurance policy
- Bank statements
- Photographs

# The definition of a “Professional Sportsperson”

A “**Professional Sportsperson**”, is someone, whether paid or unpaid, who:

1. is currently providing services as a sportsperson, or is playing or coaching in any capacity, at a professional or semi-professional level of sport
2. is currently receiving payment, including payment in kind, for playing or coaching, and that payment covers all, or the majority of, their costs for travelling to, and living in, the UK, or has received such payment within the previous four years
3. is currently registered to a professional or semi-professional sports team or has been so registered within the previous four years. This includes all academy and development team age groups
4. has represented their nation or national team within the previous two years, including all youth and development age groups from under 17s upwards
5. has represented their state or regional team within the previous two years, including all youth and development age groups from under 17s upwards
6. has an established international reputation in their chosen field of sport and/or
7. engages an agent or representative, with the aim of finding opportunities as a sportsperson, and/or developing a current or future career as a sportsperson, or has engaged such an agent in the last 12 months, unless they are playing or coaching as an Amateur in a charity event, or they are a Student who is studying a course at degree level or above at a higher education provider and playing or coaching sport as an Amateur or as part of a work placement that is undertaken as an integral and assessed part of their course.

An “**Amateur**” is a person who engages in a sport or creative activity solely for personal enjoyment and who is not seeking to derive a living from the activity. This also includes a person playing or coaching in a charity game.

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