

## **CORONAVIRUS - IMPLICATIONS FOR TIER 1 (ENTREPRENEUR) MIGRANTS**

Aston Brooke Solicitors is a reputable firm based in Harrow, Middlesex. We have been serving our valued customers for over a decade by providing high quality, bespoke legal services such as Conveyancing, Litigation, Immigration and Wills & Probate and more. In light of the current Coronavirus outbreak, we are proud to be at the forefront of providing our customers with up-to-date news and advice on regulations regarding Coronavirus. We will update our information regularly as per instructions from the Government.

During this difficult period surrounding Coronavirus you may feel that there is a lot of uncertainty in respect of your current immigration status as a Tier 1 (Entrepreneur) Migrant having setup a business and invested a minimum of between £50,000 and £200,000 in the United Kingdom, and possible impacts that may occur when taking various steps.

Aston Brooke Solicitors has an exceptionally qualified and trained legal team who are committed to supporting individuals like yourself and continually keep up-to-date with changes in the law and are able to fully assist and advise you practically on all aspects of immigration law.

We have put together some FAQs in respect of any immediate questions that you may have as a Tier 1 (Entrepreneur) Migrant during this uncertain time:

### **I employ two members of staff and have furloughed them, will this affect my extension application?**

No. You can furlough your employees but this period will not count towards the requisite 12-month period. If by the time of the extension/settlement application you have not reached the requisite 12-month period you can apply for a short extension to the Home Office to meet this requirement.

### **Can I meet the job creation requirement by combining multiple jobs across different months during the relevant 12-month period?**

Yes. It has been clarified that Tier 1 (Entrepreneur) Migrants are able to meet the job creation requirement by combining multiple jobs across different months during the relevant 12-month period. You no longer need to employ at least two people for 12 consecutive months each. This offers some flexibility for Tier 1 (Entrepreneur) Migrants who may otherwise be at risk of not meeting the requirements for the next stage of their immigration process.

### **My visa is due to expire before the end of May 2020 and as appointment centres are closed due to the Coronavirus can I wait until the appointment centres reopen or make the application before my visa expires?**

If your visas are about to expire, you must make an application to extend/settle on or prior to this date otherwise you will be deemed by the Home Office to be an overstayer. All dependents must be included in the application as well.

**I have valid leave to enter/remain and my visa is due to expire within the next two months. However, my dependants are abroad, and due to the lockdown they are unable to return to the United Kingdom. How can I protect my leave to enter/remain and those of my dependants?**

If your visas are about to expire, you must make an application to extend/settle on or prior to this date otherwise you will be deemed by the Home Office to be an overstayer. Your dependants must make a separate application from abroad prior to the expiry of their respective visas.

**I have valid leave as a Tier 1 (Entrepreneur) Migrant and my dependants are in the United Kingdom on visit visas which expire at the end of May 2020. Can they apply as Tier 1 (Entrepreneur) dependants while in the United Kingdom during the Coronavirus lockdown?**

Yes. Your dependants can apply from within the United Kingdom to switch to Tier 1 (Entrepreneur) dependants until 31 May 2020 if their leave expires between 24 January 2020 and 31 May 2020. They will need to meet the requirements of the route that they are applying for and pay the requisite Home Office Fees and Immigration Health Surcharge.

**My visas have expired within the last 14 days, however I have not made an application for an extension/settlement due to the uncertainty with the Coronavirus lockdown, what can I do now?**

An extension/settlement application must be made within 14 days of leave expiring and that period, at the discretion of the Home Office, can be overlooked if it considers that there is a good reason beyond your control or that of your representatives in failing to make it in-time. You will need to clearly set out all of the reasons with supporting evidence as to why it was not submitted in-time in order for the Home Office to exercise its discretion.

**Due to the difficulties with my business during the Coronavirus period I have relied upon Government Loan(s), will this affect my extension/settlement application?**

No. Public funds are defined in law as welfare benefits such as income support, housing benefit, council tax benefit, child benefit etc and does not include Government Loans. As the definition at present does not include Government Loans you will not be deemed to have relied upon public funds for the purposes of your business.

**I have valid leave to enter/remain, however I am abroad at present and due to the lockdown I am unable to return back to the United Kingdom. Will this impact upon my settlement application on the basis of five years?**

No. Applicants must have spent a continuous period of five years lawfully in the United Kingdom as a Tier 1 (Entrepreneur) Migrant. Provided when the settlement application is made you have not been out of the United Kingdom for a period of 180 days or more in each of the five consecutive 12-month periods then this will have no impact. If you have exceeded the requisite period due to the Coronavirus lockdown, applications can still be made where the Home Office may exercise discretion.

## **Due to the Coronavirus I have had no choice but to close the business down permanently, however given that I have already invested a minimum of £200,000 in the initial business can I change to a new business and still make an extension application as a Tier 1 (Entrepreneur) Migrant?**

One of the conditions of being granted an extension is that the Applicant has genuinely operated the initial business whilst he/she has had leave as a Tier 1 (Entrepreneur) Migrant and is still trading within the United Kingdom economy. As the business is closed, you can no longer extend as a Tier 1 (Entrepreneur) Migrant, however, you can switch in-country and make an application as a Innovator Migrant prior to your current visa expiring. You have to demonstrate that you have a minimum of £50,000 available to invest in a new business and it is endorsed by a Home Office approved endorsing body, for example, The Bakery, CyLon, Fortunis Capital Ltd, Founders Factory etc.

## **If I do not cease trading my business but change my business due to the Coronavirus will this affect my extension application?**

If this is the position then strong supporting evidence will need to be submitted at the time of the extension application and the Home Office, given the exceptional circumstances surrounding the impact of the Coronavirus on the previous business, may exercise its discretion.

## **I am eligible to make an application for settlement, however I am still 28 days short of reaching the five year period and given this uncertain period due to the Coronavirus I am quite worried about the possible survival of my business, what can I do?**

An Applicant can apply for settlement up to 28 days before reaching the qualifying five year period. You will need to gather all of the requisite specified documents and lodge the application to the Home Office online as soon as is possible as you are currently within the 28-day period to do so.

**DISCLAIMER:** Please note that the above information is not advice from Aston Brooke Solicitors, but rather an update on current legislation and Government guidelines as of 08.05.2020. The legislation and guidelines are constantly changing. Please visit our website for up-to-date information or contact us directly for legal advice.