

CHAPTER 5: SECTION 3 - SOLE REPRESENTATIVES OF OVERSEAS FIRMS

This Immigration Directorate Instruction provides general information about the Sole Representatives category. It should not be read as a complete statement of the Immigration Rules or the policy for this category. The full criteria are contained in the [Immigration Rules](#).

- Further information about leave to enter issues can be obtained from Border Control Policy Implementation (BCPI).
- Further information about limited and indefinite leave to remain issues can be obtained from the Work Permits (UK) Policy team.

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1. INTRODUCTION

Paragraph 144 of HC 395 provides for the admission of representatives of overseas firms **which have no branch, subsidiary, or other representative here**. Where a branch, subsidiary, or other representation already exists, staff will require work permits.

If, however, a United Kingdom company exists **as a legal entity only**, (eg; because it has been set up in anticipation of the parent company's expansion into this country) employs **no** staff and transacts **no** business, then a sole representative arrangement would still be admissible.

Where two representatives are coming to the United Kingdom they **cannot both** be treated as permit free. One may be treated as a sole representative and after arrival he should make a work permit application for the other.

It should be noted that permit free status does **not** extend to a secretary or personal assistant accompanying a sole representative.

Entry clearance is mandatory for persons who wish to enter the United Kingdom in this category.

2. LEAVE TO ENTER AS A SOLE REPRESENTATIVE

Most passengers seeking entry in this capacity are in possession of the required entry clearance. Examination should be aimed at ensuring that there is no reason to believe that refusal is justified under Paragraph 321 of HC 395. It is therefore important to keep in mind the requirements of Paragraph 144.

2.1. Key points

The main points on which the immigration officer needs to be satisfied are:

- that the passenger holds a valid entry clearance endorsed "Employment" and which also shows the length of stay together with the name of the firm;
- that there is no reason to believe that false representations were made in order to obtain the entry clearance or that circumstances have changed since its issue.
- that refusal is not justified on the grounds of restricted returnability, medical grounds, grounds of criminal record, or on the grounds that the person is the subject of a deportation order or that his exclusion is conducive to the public good.

2.2. Further guidance

Where a passenger arrives without entry clearance but due to exceptional circumstances discretionary treatment is considered, the immigration officer should satisfy himself that the passenger satisfies the requirements of Paragraph 144 (i) to (vi) of HC 395.

The immigration officer may also require further guidance where:

- a passenger wishes to enter the United Kingdom as a sole representative but intends spending less than 9 months in the first year here (**ANNEX J**, below, explains the concession relating to certain sole representatives in this position).
- facts have come to light which were not disclosed to the entry clearance officer and it is necessary to establish whether or not the entry clearance would have been issued if the facts had been known.

ANNEX J provides general guidance about sole representatives (including terms of employment/recruitment).

2.3. Granting leave to enter

- leave to enter should be granted for 24 months on Code 4.

2.4. STATISTICAL DATA

Other person granted leave to enter

2.5. Refusal of leave to enter

- Where a **non-visa national** seeks entry in this capacity without a valid United Kingdom entry clearance issued for this purpose and no compelling or compassionate circumstances exist such as to warrant exceptional treatment, he should be refused entry under Paragraph 146 of HC 395.
- A **visa national** seeking entry without a valid United Kingdom visa falls to be refused under Paragraph 320(5). See **Chapter 9, Section 2** to these instructions.

- Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under Paragraph 321 (See **Chapter 9, Section 3** to these instructions).
- In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference **must** be made, before refusal, to **Chapter 1, Section 9, "Persons returning to resume previous leave"**.

ANNEX L provides examples of refusal formulae.

2.6. Refusal codes

E4 Lack of required non-settlement entry clearance, including those set aside on grounds of misrepresentation, forgery, failure to disclose material facts or where a change of circumstances has removed the basis of claim to admission.

Z1 Other reasons

2.7. Right of appeal

There is no right of appeal against refusal of leave to enter as a sole representative, where no entry clearance is held.

3. LEAVE TO REMAIN AS A SOLE REPRESENTATIVE

The requirements to be met by a person seeking to remain in the United Kingdom as a sole representative are set out in Paragraph 147 in Part 5 of HC 395 and **must** be referred to when reading the following advice.

Note: The EC/Turkey Association Agreement, 1963, confers certain rights on Turkish Nationals who are already working in the United Kingdom. See section 10 to this chapter "EC/Turkey Association Agreement".

3.1. Key points

Caseworkers must satisfy themselves that:

- the applicant's parent company overseas wish to continue employing him - **he should be asked to provide** a letter from the company to this effect;
- the applicant has generated business, principally with firms in the United Kingdom, on behalf of his employer since his entry to the United Kingdom or his last extension of stay here - **he should be asked to provide** evidence of this, which could be in the form of branch accounts, or copies of invoices, or contracts, or letters from firms with whom the applicant has done business, giving an indication of the amounts of money involved in the transactions; and
- the applicant is in receipt of a salary from his employer - **he should be asked to provide** evidence of the salary paid in the first year of operation **and** the terms on which the salary will have to be paid.

3.2. Further guidance

ANNEX J provides general guidance about sole representatives (including terms of employment/recruitment).

ANNEX K provides an example of a letter setting out the evidence required for entry clearance or further leave to remain as a sole representative.

3.3. Granting leave to remain

- An applicant may be granted an extension of stay to complete 5 years provided the requirements of the Rules continue to be met.
- Where an applicant was admitted under the concession relating to certain sole representatives who intend spending less than 9 months in the first year here, (described in **ANNEX J** below) further leave to remain should **not** be granted on the same basis. After 12 months we would expect the project to have advanced to a stage where the sole representative would be required on a full-time basis. Applications for extensions from those who intend to transfer their base to the United Kingdom can be granted for up to 3 years.

3.4. STATISTICAL DATA

F3 Extension - Sole representative

3.5. Switching

An application for leave to remain as a sole representative from someone who entered the United Kingdom in another capacity should normally be refused.

3.6. Refusal of leave to remain

Chapter 9, Section 1 "Adverse Decisions - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

Refusal of extension of stay as a sole representative is under Paragraph 149 of HC 395 on the grounds that each of the provisions of Paragraph 147 is not satisfied.

ANNEX L (below) provides examples of refusal formulae.

3.7. STATISTICAL DATA

F9 - Refusal

4. SETTLEMENT

Under Paragraph 150 of HC 395, settlement may be granted to those who have completed 5 years here in this category, **if it is specifically applied for**. However, if an applicant who has been in the United Kingdom for 5 years applies for leave for a **limited** period, the application should **not** be treated as one for settlement.

The requirements to be met by a person **seeking settlement** in the United Kingdom as a sole representative are set out in Paragraph 150 in Part 5 of HC 395 and **must** be referred to when reading the following advice.

4.1. Key points

Caseworkers must be satisfied that:-

- the applicant has complied with the sole representative requirements throughout his stay here;
- the employer wishes to continue to employ him;
- he has generated a meaningful amount of business for his employer;
- the parent company is still actively trading and remains centred overseas;
- the applicant has been paid a realistic salary as stated in his contract of employment over the 5 year period.

4.2. Further guidance

ANNEX J provides general guidance about sole representatives (including terms of employment/recruitment)

4.3. Granting settlement

If the requirements are met settlement may be granted under Paragraph 150 of HC 395.

4.4. STATISTICAL DATA

1CA In own right - 4 years permit-free employment

4.5. Refusal of settlement

Chapter 9, Section 1 "Adverse Decisions - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

Refusal of indefinite leave to remain will be under Paragraph 151 on the grounds that each of the requirements of Paragraph 150 is not met.

Annex L provides examples of refusal formulae.

4.6. STATISTICAL DATA

X7 - Settlement refusal premature or inappropriate application - applicant still has concurrent leave

X8 - Settlement refusal applicant for settlement other than as a husband or wife - no extension of leave granted