

# Digital Nomad Visas: A Work Permit Without The Red Tape?

The COVID-19 pandemic has led to a dramatic shift in the way we work, and despite the fact that restrictions are slowly beginning to lift in the UK and a return to the office is on the horizon, some companies have chosen to implement permanent flexible working policies and allow staff to work from home at least some of the time.

Modern technology means that many job roles can effectively be performed from anywhere, with little more than a laptop and a good WiFi connection. So for those employees who are not required to attend the office for the foreseeable future, is there any basis for employers to specify that they must remain in the country in which they are employed? Or, when developing a company-wide flexible working policy, should employers allow their staff the flexibility to perform their roles from a different country?

The idea of working from the beach may be an attractive option for those with the financial and practical means to relocate, however, working abroad can raise significant compliance risks for both the employee and their HR department back at home.

Critically, individuals must ensure that they have the necessary immigration permissions in place to be able to work in the jurisdiction they are in. Similarly, employers must take steps to effectively monitor their remote workforce as they too can face legal repercussions if an employee breaches the immigration rules of their host country.

## The Rise Of Digital Nomad Visas

As flexible working becomes the norm, a growing list of countries across the globe are opting to capitalise on the potential benefits this working pattern could bring to their economies, by offering dedicated visa categories for remote workers.

A Digital Nomad visa is a type of work permit that allows the holder to work in a particular country without the need for formal sponsorship from an employer. More robust than a visitor visa but with greater flexibility than the traditional work permit routes, these categories are seen as the ultimate tool in remote working.

A Digital Nomad visa is a type of work permit that allows the holder to work in a particular country without the need for formal sponsorship from an employer

The pandemic has significantly heightened interest in this type of permission, with many IT professionals in particular seeking alternative locations to work from whilst their role remains remote. Among the countries currently offering formal remote working visas are:

- Barbados
- Bermuda
- Anguilla
- Estonia
- Dubai (UAE)
- Georgia
- Cayman Islands.

Many of the above countries share common themes to their visa requirements, and all require applicants to demonstrate a certain level of income. However, financial requirements vary considerably between countries, and additional conditions may apply if any family members are accompanying the main applicant.

Remote work visas are generally valid for a period of one year although there are some exceptions. Furthermore, many of these countries charge an application fee

which ranges from \$2,000 for Anguilla or completely free in the case of Georgia.

## A Typical Digital Nomad Visa Offering

So what can successful applicants expect from such programmes? Each country or territory will naturally have its own rules and requirements in place for remote workers, therefore individuals are advised to check the specific details of the visa offering with the country they are applying to.

An example of a typical offering for Digital Nomads can be demonstrated by Antigua and Barbuda's "Nomad Digital Residence" (NDR) programme. This long-stay visa programme grants successful applicants and their dependents the right to reside in Antigua and Barbuda for up to two years, including the ability to travel in and out of the country during that period.

In order to qualify for the NDR visa, applicants must be currently employed or self-employed, and must be able to perform their job role remotely using mobile technology.

Successful applicants will be expected to pay income taxes to the country in which they are normally resident, but will not need to pay any income tax to Antigua and Barbuda. The NDR visa does not grant the holder or their dependents the right to seek employment or derive any income from any local entities in Antigua and Barbuda.

Applications and supporting evidence for the visa can be submitted online and a non-refundable fee is required on application. Currently, the application fees stand at USD \$1,500 for a single applicant, USD \$2,000 for couples and USD \$3,000 for dependents (for families of three persons and over).

Like most other countries offering similar programmes, Antigua and Barbuda have marketed the country as a relatively Covid safe, luxury destination offering a picturesque working environment and modern amenities for Digital Nomads to 'live, work and play'.

However idyllic this type of working arrangement sounds, there are several important factors that HR must consider before allowing their employees to perform their job role overseas.

## What Are The Key Considerations For HR?

There are many legal and practical implications that could arise from

staff working overseas. Not only must employers be able to track performance and attendance, they must also carefully consider the employment and immigration laws that may apply.

First and foremost, any employee who wishes to work in a different country to the one they are employed in will need to ensure that they are legally able to do so if they are not a citizen of that country. If the destination country does not offer a dedicated Digital Nomad visa, they may need to apply for a visa under an alternative route in order to gain permission to work, even for a limited period.

To add more complexity to the issue, ‘working’ is defined differently between jurisdictions

To add more complexity to the issue, ‘working’ is defined differently between jurisdictions. In many countries, visitor visas do not allow the holder to undertake any work activities, and even dedicated business visitor visas may only permit limited activities such as attending meetings, conferences or training. Before allowing employees to work abroad, HR should carefully consider local immigration laws to ensure the correct permission is sought. Breaching local immigration laws can have serious consequences for individuals and their employers, both legally and in terms of reputation.

Secondly, employers should consider how remote working will impact their ability to monitor their workforce. Under UK immigration law, businesses ‘sponsoring’ migrant workers are required to keep accurate records on their sponsored employees, and report absences and other significant changes to the Home Office. Whilst some of these requirements have been relaxed due to COVID-19, sponsors could risk losing their sponsor licence if they fail to fully comply with their record keeping and reporting duties. Furthermore, foreign nationals on a UK work visa risk breaching the conditions of their visa if they spend too long outside of the UK. Extended

periods spent outside of the UK could also impact the individual’s ability to settle in the UK if they intend to apply for permanent residency once eligible.

Although HR may be happy for their employees to work abroad, they should also consider the employment laws that may apply. For example, a UK employee working abroad will still be subject to UK employment laws to some extent. However, by working in another country, the employment laws of the host country may also apply, for example, local laws around salary and annual leave, health and safety, tax and security obligations. This will vary between countries, so employers are advised to seek specialist advice in order to understand the legal requirements.

### The Future Of Remote Working Visas

Since the COVID-19 pandemic has made remote working a necessity for businesses

in most countries at least temporarily, it has been proven to employers that many job roles can be effectively performed outside of the traditional office environment.

For this reason, the demand for remote working visas and requests from staff to work abroad for extended periods is likely to grow. Businesses are therefore encouraged to consider these remote working issues now, including the potential immigration implications these arrangements could have.

If the trend continues, governments are likely to take a fresh look at their immigration policies to ensure the routes on offer strike the right balance between welcoming foreign digital nomads to help boost the local economy, whilst preventing illegal working and abuse of the system.

With more countries expected to join the growing list already welcoming digital nomads, we can predict that remote working visas, in some shape or form, are here to stay.

#### How Can Remote Working Affect Your Business?

With flexible working patterns and remote work now becoming the norm, businesses should consider developing specific internal policies for their employees if they have not already done so.

When developing a remote working policy for your business, you may wish to consider the following questions:

- What remote working policy will you offer your employees post-covid?
- How will your company-wide remote working approach impact those ‘sponsored’ employees bound by country specific visa restrictions?
- What are the tax implications when an employee decides to work from abroad?
- Will existing insurance schemes (such as medical insurance) held by the organisation need to be amended to those employees working from abroad?
- Do you have the appropriate safeguards in place regarding data protection and data security?
- How will you monitor work output and employee conduct?



#### ALASTAIR MASON

##### Smith Stone Walters Global Immigration

Smith Stone Walters is a global immigration practice with offices in London, New York, Hong Kong and Mumbai. We understand, manage and support immigration moves throughout the UK, Europe and the rest of the world.

We have spent years refining our global immigration capability, with a carefully selected choice of local partners to meet every client need. We excel at delivering strategic solutions and streamlined applications to guide you through complex immigration procedures in your business’s destination countries. From conducting initial feasibility assessments, to managing work permit applications and providing

subsequent post arrival assistance, our outstanding immigration team is primed to support your business.

If you need advice or support in reaching your business’s global immigration goals, Smith Stone Walters would be delighted to help. To discuss your requirements, please contact Senior Account Manager Alastair Mason on [Alastair.Mason@smithstonewalters.com](mailto:Alastair.Mason@smithstonewalters.com).