

Non-European Economic Area (EEA) Sportspeople

Clarification, Questions and Answers

Dec 2016.

This document is intended as a guide for Leagues and Clubs to assist with some of the typical questions asked regarding players arriving to UK from outside the EEA. It is important to be aware that, in general, 'Cricket' uses different terminology to the Home Office regarding employment. This difference is covered in the Professional v Amateur clarification below and contained in answers provided. Home Office have advised that as ECB are not registered immigration officials they are unable to provide definitive answers but the Home Office have assisted and contributed to the answers below.

This document focuses on the three most common visitor visa types found within cricket other than the Tier 5 Creative & Sporting Visa:-

SVV = Standard Visitor Visa

YMS = Tier 5 Youth Mobility Scheme

NVN = Non Visa National.

There are other visas that permit sport and permission to play would have to be assessed on a case by case scenario.

With all three Visas above, no player in the UK can be employed as a sportsperson or coach, paid or unpaid. In this instance the Home Office considers employment as paid or unpaid work.

Professional v Amateur Clarification:

For clarification purposes surrounding the definition of a "Professional". It has been confirmed that several tests are applied by the Home Office including the two examples below.

- 1) The level of the cricket played in the UK or cricket played at outside the UK.
- 2) If the sportsperson has derived a living, currently is deriving a living, or intends to derive a living, at any level of the game, even if it is not their sole income.

For example; there are UK resident players, typically young people that play at all levels of the recreational game, who are in receipt of payment from a club to play. These players are of a good standard for the recreational game, but have no desire to take their career as a cricketer any further (as in playing in Minor Counties cricket or above), they are just earning some money from something they are relatively good at.

If this scenario was set in Australia, or South Africa, they would also be classed as "Professional" according to the Home Office definition, and as such could not play here on a SVV/YMS/NVN.

Typical scenarios:

Please note when Standard Visitor Visa is mentioned the same applies for Tier 5 Youth Mobility and Non Visa Nationals unless otherwise specified.

Ex-Professional Players:

Can a player who is no longer playing professionally or who has only played 2 first class matches in the last 2 years (therefore, does not meet Tier 5 criteria) come to the UK on a Standard Visitor Visa and play for a recreational cricket club, providing they are not being paid?

No. The player would meet the 'Professional Sportsperson' definition in the Immigration Rules as they have previously derived a living from playing as a professional or are currently deriving a living as a professional. The player can play in a charity game.

Players from non ICC Test Countries:

Can a player from an ICC Associate Member Country, such as Namibia, travel to UK and play for a recreational club on a Standard Visitor Visa?

If they meet the 'Professional Sportsperson' definition in the Immigration Rules, they could not play under the Standard Visitor Visa (SVV).

A player represented his country at junior level through to the senior team, but was never paid. Can they play on a Standard Visitor Visa?

No, The player would meet the 'Professional Sportsperson' definition.

Currently non-contracted Players:

Can a player who has played professionally, but is not currently contracted to a team in his home country play in UK for a recreational cricket club on the Standard Visitor Visa, providing they are not being paid?

No, The player would meet the 'Professional Sportsperson' definition.

University Student:

Can a player who is taking a Gap year from University in their home country, travel on a Standard Visitor Visa and play here for a recreational club, providing they are not being paid? That player may have represented their University in a competition in their home country, but has only ever played club cricket and never been paid.

This person is likely to be considered an 'Amateur' as the information provided does not suggest that they meet the 'Professional Sportsperson' definition.

Club Cricketer:

Would a person who has only ever played Club (recreational) cricket in their home country, and has no desire to play higher than that, but has been paid to play, be able to travel and play here on a Standard Visitor Visa, provided the club they wish to go to are not paying them?

No. The player would meet the 'Professional Sportsperson' definition.

Tier 5 Youth Mobility Scheme:

Can a person who is here on a Tier 5 Youth Mobility Scheme visa coach?

If they have never acted as a "Professional" Coach/Coaching Assistant as per the Home Office definition, and they are not on a "Coaching Pathway" then they could act as a Coaching Assistant here, under direct supervision from a suitably qualified coach provided it is unpaid, they are suitably qualified and they have been vetted accordingly.

NOTE:-THAT NO COACHING IS PERMITTED UNDER THE STANDARD VISITOR VISA OR NON VISA NATIONALS.

Use of Agents

If a person (player or coach) has used an Agent to be placed at a club, would the Home Office consider that person a "Professional", and as a result be ineligible to be in UK on a SVV?

Possible, the sportspeople are effectively advertising their services as players. Either the club and / or player are paying the agents for this service. The SVV is for gaining experience in a sport and in some cases it could be argued that developing their cricket career is exactly why they are coming. Whilst using a 'Finding Service' does not necessarily determine that they are a 'Professional Sportsperson', this will be taken in consideration along with the profile of the individual, as it may be an indication that they are seeking to derive a future living in the sport. All cases would naturally be considered on their own merits. CLUBS ARE LEGALLY RESPONSIBLE TO ENSURE THE CORRECT VISA IS OBTAINED.

Expenses

Clubs and Leagues should be clear that a non-ordinarily resident player in England & Wales on a SVV/YMS/NVN cannot be paid for playing or coaching cricket. Air Fare reimbursement and expenses for accommodation and travel whilst in UK can be paid if deemed necessary. For clarification there is no published 'reasonable expenses' cap. Any amount deemed reasonable will be based upon cost of living and what is deemed reasonable by Home Office/HMRC in a particular geographical area.

Based on the information above, to assist clubs when considering a player or someone to assist with coaching (YMS) they may wish to assess the status of a player to determine visa eligibility by asking themselves the questions below:

1. *Has the person ever been paid to play and/or coach cricket (YMS only) in any country, at any level?*
Yes = Professional, No = Go to 2
2. *Has the person ever played and/or coached (YMS only) at a semi-professional level or a higher standard in any country?*
Yes = Professional, No = Go to 3.
3. *Has/ Is the person on a "player pathway"??*

Yes = May be classified as Professional, No = Go to 4.

4. *Is the person intending on playing and/or coaching (YMS only) at a semi-professional or higher level one day?*

Yes = Professional, No = Go to 5.

5. *Is this person intending to derive a living (being paid) to play and/or coach?*

Yes = Professional, No = It is likely that this person would be considered an "Amateur".

***Player "Pathway" definition:** *A player may be considered to be on a "Pathway" and therefore classified as a "Professional Sportsperson", if that person has played cricket **above** U17 at state/ province/ territory level (paid or unpaid) in any country.*