Although most of the UK Immigration Rules apply to Commonwealth citizens in the same manner as they do to other foreign nationals, Commonwealth citizens enjoy a number of important advantages.

BACKGROUND
Originally, a large class of people had, as subjects of the British Crown, the right to live and work in the UK. However, as Commonwealth countries have achieved independence and the UK has moved closer to the European Union, these rights have been severely restricted. Today, Commonwealth citizenship does not free an individual from UK immigration and employment restrictions. Indeed, the citizens of certain Commonwealth countries are “visa nationals”, who must obtain a visa before travelling to the UK for whatever purpose and for whatever length of time.

Any non-visa national (other than a British National (Overseas), a British Territories citizen, a British Overseas citizen, a British Protected Person or a person who under the British Nationality Act 1981 is a British subject) who is seeking entry for a period exceeding 6 months or otherwise than as a visitor needs a visa obtained before reaching the UK. This includes Commonwealth citizens from countries such as Australia, Canada, Malaysia, New Zealand, Singapore and South Africa.

RIGHT OF ABODE
This is the right to live in the UK free from immigration and employment restrictions. It is enjoyed by all British citizens and certain Commonwealth citizens. In summary, those Commonwealth citizens are:-

- those born before 1 January 1983 to a mother who was a British citizen by virtue of her birth in the UK,

- (if the father is a British citizen by virtue of his birth in the UK, then he automatically passes on his British citizenship to his child. From 1 January 1983, a mother has also been able to pass on British citizenship in these circumstances.)

- women married before 1 January 1983 to a man with the right of abode.

A Commonwealth citizen must have qualified on the above grounds at 1 January 1983 and not ceased to have been a Commonwealth citizen subsequently. This means that no one can acquire this right now and that it is not available to citizens of countries, such as South Africa, which have not been members of the Commonwealth continuously since 1 January 1983.

For British citizens, the right of abode is evidenced by a British passport. Other Commonwealth citizens who qualify must apply for a “certificate of entitlement to the right of abode" to be entered into their passport. A new certificate will be required when the passport expires. Application is to the UK Border Agency if the applicant is in the UK; otherwise, to a British Consulate or to a British Embassy or High Commission with a visa section. The application should be made on the relevant application form and be supported by the relevant birth or marriage certificates, passports and photographs. There is an application fee which must normally be paid in the local currency of the country where the application is being made.

UK ANCESTRY (BRITISH-BORN GRANDPARENT)
Certain Commonwealth citizens have the right to come to the UK to take up or seek employment.

A Commonwealth citizen with a British-born grandparent will be given permission to enter the UK for employment purposes if the applicant:

- is able and intends to take or seek employment in the UK;

- is aged 17 or over; and

- can demonstrate that he or she can maintain himself or herself and his or her dependants without recourse to public funds.

Upon proof of UK ancestry (by means of birth and marriage certificates), the individual will be granted permission to enter for a period of up to five years at the discretion of the immigration officer.

An application for entry to the UK in this category must be made on the appropriate form to the entry clearance officer of a British Embassy, Consulate or High Commission before travelling.
The applicant may apply to be accompanied by his or her spouse or civil partner and minor dependent children (whether or not they qualify under this category in their own right) on proof of their relationship to the applicant and of his or her ability to support them. The applicant and his or her family members may well be called in for interview by the entry clearance officer. If successful, they will receive an "entry clearance" sticker (ie a visa) in their passports and be given a limited time (usually six months) in which to travel to the UK to take advantage of the permission. The spouse or civil partner and dependants must enter the UK at the same time as (or subsequent to) the applicant's own arrival, but are then free to work in the UK within the period of permission granted to the applicant.

After five years in the UK, the applicant, the spouse or civil partner and dependants may apply to the UK Border Agency for indefinite leave to remain here ("settled status" or "ILR"), provided that the applicant has worked continuously in the UK for those five years. If the original permission was for less than five years, the applicant should apply for an extension to take him up to his five year period.

The fact that an applicant has not worked continuously in the UK will not necessarily prejudice a subsequent application for an extension or for indefinite leave. The UK Border Agency will look at the respective periods that the applicant has spent working and not working, the applicant's reasons for not working, how the applicant has financed himself or herself, and evidence that the applicant sought employment when not working. Where an individual has not worked at all during a five year period, the UK Border Agency may question whether his or her initial intention of coming to the UK to seek employment was genuine.

If a Commonwealth citizen does not qualify to enter under this category, it may be open to him or her to be sponsored by an employer under the new points-based system. (Separate notes of advice are available on sponsorship under the points-based system).

WORKING HOLIDAYMAKERS
The old working holidaymaker scheme allowed nationals of participating Commonwealth countries, British overseas citizens, British overseas territories citizens, or British nationals (overseas) aged between 17 and 30 to come to the United Kingdom for a holiday of up to two years. This scheme has recently been replaced by the new Tier 5 Youth Mobility Scheme (YMS), which is also open to some non-Commonwealth countries. Those individuals who are already in the UK as working holidaymakers may stay for the full duration of their visa, but will not be permitted re-entry if they have less than 6 months remaining on their visa and have left the UK temporarily.

TIER 5 YOUTH MOBILITY SCHEME
Under the new points-based system, 18-30 year olds have been able to apply for the YMS since 27 November 2008. Applicants are awarded points for their nationality, their age and their ability to maintain themselves financially without relying on public funds. The funds requirement for YMS is £1,800 (£1,890 from 1 July 2014). Applications will not be accepted from those already in the UK. Successful applicants will be free for up to two years to do whatever work they like during their stay in the UK, except for self-employment (subject to certain exceptions), working as a professional sportsperson or working as a doctor in training. YMS temporary migrants may also engage in privately-funded studies, voluntary work and au pair placements as and when they wish.

YMS applicants must not have any children under the age of 18 who are either living with them or for whom they are financially responsible. A spouse or civil partner can accompany the applicant only if he or she qualifies in his or her own right. Those who have previously spent time in the UK under the Working Holidaymaker scheme or the YMS are not eligible to apply under the YMS.

There will be annual allocations of places on the YMS for each of the individual participating countries (Australia, Japan, New Zealand, Canada, Monaco, Hong Kong, Republic of Korea, and Taiwan). All YMS entry clearance applications from British Overseas Citizens, British Overseas Territories Citizens and British Nationals (Overseas) will be accepted for consideration without the requirement for sponsorship by the participating country. Once the two years have expired YMS participants must leave the UK. They cannot obtain an extension of their YMS stay or switch to another points-based system status.
EUROPE
Rights in the EEA (i.e., the European Union and certain EFTA countries) are only available to nationals of member states. Commonwealth citizens do not have the right to live and work in the EEA and may need both a visa and a full work permit from the relevant country. When travelling from the UK either on a business trip or on holiday, it may be necessary to obtain a “Schengen visa”. This is a visa issued by one of the member states who have signed up to the Schengen agreement, which was designed to allow free movement within the territory constituted by the member state signatories. The member states who have signed the Schengen agreement are: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain and Sweden. The UK and Ireland are not parties to the agreement. A visa can be obtained by applying to the Consulate or Embassy visa section of any “Schengen” state and is valid for all Schengen countries, although the applicant is normally expected to approach the country he is primarily intending to visit. The applicant’s passport should normally be valid for at least six months.

GENERAL
Commonwealth citizens who are resident in the UK are entitled to register to vote in UK elections.

The above is a summary only of those areas where the Immigration Rules are not the same for Commonwealth citizens as for other foreign nationals. Commonwealth citizens are, of course, able to enter the UK in a number of other categories on satisfying the requisite conditions: separate notes are available.

CONTACT DETAILS
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