

This is the full version of an article by journalist Caitlin Austin that appeared in TNT Magazine in the UK on 28 July 2003, with additional material contributed by Solicitor Anne MacGregor, Co-founder of the Southern Cross Group.

For the shortened version of the article which appeared in print, see the UK Citizenship and Immigration Law and Policy folder in the Archives of the Southern Cross Group website at: <http://www.southern-cross-group.org/archives>

Innovator Visas for the UK

So you've got a business idea guaranteed to make you rich. Well, you might be able to make it fly in the UK as the holder of an innovator visa. Sydney-born Andrew Willett, 27, sorted himself an innovator visa through the Home Office to start up Pure Sports Medicine.

"I had two jobs back in Australia. I was a foreign exchange trader and a professional rugby player, but I wanted a change so I applied to do my MBA at Oxford," says Willett. "I was playing rugby for the University as well, but the second week I was there I snapped my Achilles tendon. When I went for treatment I received pretty poor care from the public system, and when I looked at my private options I found there really weren't many."

Willett hit the books to compare sports medicine in the UK to its Australian, New Zealand, South African and North American counterparts. "My research revealed a vast disparity in sports medicine between here and what existed in other countries," he says. So he wrote a business plan and started raising money for what would become Pure Sports Medicine.

Then it was just a matter of applying for the innovator visa, a relatively new UK visa category introduced in pilot form in late 2000 and now indefinitely extended. It's essentially an entrepreneurial visa to support people starting businesses in the UK - businesses it is hoped will generate local jobs and result in "exceptional economic benefit" to the UK. Prerequisites for the visa include a business plan, financial backing and the guarantee that your business will produce at least two new full time positions.

"Pure Sports Medicine is a specialist sports medicine practice that deals with the prevention, diagnosis, treatment and rehabilitation of sports injuries," says Willett. "Private medicine is much more developed in countries like Australia and the United States, so this is one of the reasons why I chose to come to the UK. There was such a great opportunity here."

Will a new wave of young entrepreneurs be enticed by the Innovator Visa Scheme to make the trek to the UK? The selection process is rigorous. During the Scheme's pilot phase, from September 2000 to September 2002, the Home Office issued only 112 innovator visas. Generally, those granted innovator visas have put forward plans to set up high tech businesses in areas such as e-commerce, electronic share dealing and music industry technology. The Innovators Scheme was designed to create an economic entry route into the UK for people whose business ideas will bring economic benefit to the UK but who would not qualify under other existing immigration categories.

"You don't necessarily have to come up with a brilliant new idea," says Willett. "Instead you can just take a practice that works and apply it to a different place where that idea might not exist or may be underdeveloped."

Of course obtaining the innovator visa is only half the battle and Willett is quick to remind future entrepreneurs that often these gaps in a certain country's market exist because to fill them is a difficult task.

"Anyone starting their own business needs to recognise that everything will take more time than you expect and a lot of what you will be doing is problem solving."

John Sved, an Australian who had his first UK innovator visa granted in 2001, concurs. While employed by a large German corporation, he developed specialised neutron generator hardware, but his employer axed the project, so then Sved decided to launch his own company with a British business partner, to take the technology forward. They decided on the name Neutron Systems Development Ltd (NSD) because NSD also stands for "Never say die".

Resilience, he says, is a crucial quality, in both getting a business going and dealing with the Home Office in the innovator visa process. NSD will require in the order of £ 3 to 10 million in investment capital and Sved is already part of the way there, having raised significant funding through the UK Department of Trade and Industry and regional UK economic development sources.

Anyone thinking about applying for an innovator visa should note that the initial visa is only granted for 18 months, which is not long to get a new venture off the ground and convince the Home Office that you should be allowed to stay longer. When the Scheme was conceived, it was envisaged that after 18 months, innovators would generally be able to show the Home Office that their business was trading, two jobs had been created, and they were supporting themselves and their families financially. The plan was to then give these people further leave to remain in the UK at that point for up to 4 years after their date of original entry into the UK.

But the Home Office is finding that many businesses are taking much longer to establish. Although Sved's initial innovator visa was processed without drama and relatively quickly, he has just been through a tortuous and stressful renewal process, and has only just been granted a further 18 months as an innovator.

The fact that Sved's application to renew his innovator visa with the Home Office was initially rejected after 18 months of work in setting up the business on the initial visa put the whole future of NSD in doubt. He was told he could appeal the decision, but was reluctant to launch a formal appeal, as that would have undermined investor confidence in NSD. He was also told by the Home Office that if he appealed, he would be obliged to stay in the UK during the entire appeal process - quite restrictive in view of the fact that his wife and children are still based in Germany.

He was also informed that if he were to appeal, and lost his appeal, he would then be "administratively removed" from the UK, if he did not leave promptly of his own accord.

Thankfully, Sved was able to get the situation sorted. NSD's company lawyer was a Labor party member and had some useful contacts. In addition, Sved's British business partner turned to his local MP, who just happened to be the junior minister for immigration. Finally, after various interventions, the Business Case Unit within the Home Office "reviewed" the matter without a formal appeal, and the extension was granted. But Sved remains skeptical. He says that it is ironic that an immigration scheme designed to encourage entrepreneurship should be administered in such an inflexible way, and believes his initial renewal application may simply have been rejected because the Home Office's Business Case Unit was being restructured when it arrived and the civil servants concerned were otherwise preoccupied. They made no attempt to phone him to request further information which he could easily have provided immediately to fully satisfy them that his case was genuine, and instead simply sent a rejection because his file was "too hard" and they wanted it off their desk. He questions whether they stopped to think about what he and his business partner had at stake when the negative decision was made.

Enquiries while researching this article have revealed that the Home Office currently only has two full time and one part time civil servant processing innovator visa applications. All three were absent from the office when contacted for more information on the day this article went to press.

For more information on Pure Sports Medicine see www.puresportsmed.com
For more information on NSD see www.neutrons.biz

Business experience requirements for an Innovator Visa:

- Business or management experience
- Experience in proposed business
- Work or research in field
- Experience in UK export/import
- Experience in starting up a new business

Innovator Visa requirements:

- Business must create at least two new full time jobs in the UK
- 5% of company shares must be in your name
- Must be able to support oneself without having to do other work until your business produces profits.
- Have enough money to finance you business for the first six months after you arrive.

All qualifications and requirements will be judged on a point system to assess whether or not you qualify for a visa.

More information on the Home Office website:

<http://www.ind.homeoffice.gov.uk/default.asp?pageid=1229>

Enquiries to the Home Office should be directed to: +44 (0)20 8604 3056
Application forms from the Home Office on +44 (0)20 7008 8308