

CHAPTER 11

TEMPORARY ENTRY FOR BUSINESS PERSONS

Article 11.1 Definitions

For the purposes of this Chapter:

“business person” means a national of a Party who is engaged in trade in goods, the supply of services, or the conduct of investment activities;

“immigration formality” means a visa, permit, pass or other document or electronic authority granting temporary entry;

“immigration measure” means any measure affecting the entry and stay of foreign nationals; and

“temporary entry” means entry into the territory of a Party by a business person of the other Party who does not intend to establish permanent residence.

Article 11.2 Scope

1. This Chapter applies to measures that affect the temporary entry of business persons of a Party into the territory of the other Party, under any of the following categories as defined in each Party’s Annex IV (Schedules of Specific Commitments on Temporary Entry for Business Persons):
 - (a) for Australia:
 - (i) business visitors;
 - (ii) installers and servicers;
 - (iii) intra-corporate transferees;
 - (iv) independent executives; and
 - (v) contractual service suppliers
 - (b) for the United Kingdom:
 - (i) business visitors for establishment purposes;

- (ii) short-term business visitors;
 - (iii) intra-corporate transferees;
 - (iv) investors;
 - (v) contractual service suppliers; and
 - (vi) independent professionals.
2. This Chapter does not apply to measures affecting nationals seeking access to the employment market of the other Party, nor does it apply to measures regarding citizenship, nationality, residence, or employment on a permanent basis.
 3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry of nationals of the other Party into, or their temporary stay in, its territory, including those measures necessary to protect the integrity of, and to ensure the orderly movement of natural persons across its borders, provided that those measures are not applied in a manner as to nullify or impair the benefits accruing to the other Party under this Chapter.
 4. The sole fact that a Party requires business persons of the other Party to obtain an immigration formality shall not be regarded as nullifying or impairing the benefits accruing to the other Party under this Chapter.

Article 11.3 Application Procedures

1. As expeditiously as possible after receipt of a complete application for an immigration formality, each Party shall make a decision on the application and inform the applicant of the decision including, if approved, the period of stay and other conditions.
2. At the request of an applicant, a Party that has received a complete application for an immigration formality shall endeavour to promptly provide information concerning the status of the application.
3. Each Party shall ensure that fees charged by its competent authorities for the processing of an application for an immigration formality are reasonable, in that they do not unduly impair or delay trade in goods or services or conduct of investment activities under this Agreement.

Article 11.4
Grant of Temporary Entry

1. Each Party shall set out in Annex IV (Schedules of Specific Commitments on Temporary Entry for Business Persons) the commitments it makes with regard to temporary entry of business persons, which shall specify the conditions and limitations for entry and temporary stay, including length of stay, for each category of business persons specified by that Party in paragraph 1 of Article 11.2 (Scope).
2. A Party shall grant temporary entry or extension of temporary stay to business persons of the other Party to the extent provided for in those commitments made pursuant to paragraph 1, provided that those business persons:
 - (a) follow the granting Party's prescribed application procedures for the relevant immigration formality; and
 - (b) meet all relevant eligibility requirements for temporary entry or extension of temporary stay.
3. The sole fact that a Party grants temporary entry to a business person of the other Party pursuant to this Chapter shall not be construed to exempt that business person from meeting any applicable licensing or other requirements, including any mandatory codes of conduct, to practise a profession or otherwise engage in business activities.
4. A Party may refuse to issue an immigration formality to a business person of the other Party if the temporary entry of that person might affect adversely:
 - (a) the settlement of any labour dispute that is in progress at the place or intended place of employment; or
 - (b) the employment of any natural person who is involved in such dispute.
5. When a Party refuses, pursuant to paragraph 4, to issue an immigration formality, it shall inform the applicant accordingly.
6. In respect of the commitments on temporary entry in this Chapter, neither Party shall:
 - (a) impose or maintain any limitations on the total number of visas to be granted to business persons of the other Party; or
 - (b) require economic needs tests, including labour market tests, or other procedures of similar effect, as a condition for temporary entry.

7. For greater certainty, each Party's measures regarding employment¹ shall continue to apply, including those concerning minimum wages or collective wage agreements.

Article 11.5
Provision of Information

1. Further to Article 28.2 (Publication – Transparency and Anti-Corruption) and Article 28.5 (Provision of Information – Transparency and Anti-Corruption), each Party shall make publicly available information relating to current requirements for the temporary entry by business persons of the other Party, specified in paragraph 1 of Article 11.2 (Scope).
2. The information referred to in paragraph 1 shall include, where applicable, the following:
 - (a) categories of immigration formality;
 - (b) documentation required and conditions to be met;
 - (c) method of filing an application and options on where to file, such as consular offices or online;
 - (d) application fees and an indicative timeframe of the processing of an application;
 - (e) the maximum length of stay under each category of immigration formality;
 - (f) conditions for any available extension or renewal;
 - (g) rules regarding accompanying dependants; and
 - (h) available review or appeal procedures.
3. With respect to the information referred to in paragraphs 1 and 2, each Party shall endeavour to promptly make publicly available and inform the other Party, through existing mechanisms, of the introduction of any significant new requirements and procedures or of the changes in any requirements and procedures that affect the effective application for the grant of entry into, and where applicable, permission to work in its territory.

¹ For the United Kingdom, this includes the continued application of all social security measures.

Article 11.6
Relation to Other Chapters

1. Except for this Chapter, Chapter 1 (Initial Provisions and General Definitions), Chapter 29 (Administrative and Institutional Provisions), Chapter 30 (Dispute Settlement), Chapter 32 (Final Provisions), Article 28.2 (Publication – Transparency and Anti-Corruption), and Article 28.5 (Provision of Information – Transparency and Anti-Corruption), no provision of this Agreement shall impose any obligation on a Party regarding its immigration measures.
2. Nothing in this Chapter shall be construed to impose obligations or commitments with respect to other Chapters of this Agreement.

Article 11.7
Dispute Settlement

1. Neither Party shall have recourse to dispute settlement under Chapter 30 (Dispute Settlement) regarding a refusal to grant temporary entry unless:
 - (a) the matter involves a pattern of practice; and
 - (b) the business persons affected have exhausted all available administrative remedies regarding the particular matter.
2. The remedies referred to in paragraph 1(b) shall be deemed to be exhausted if a final determination in the matter has not been issued by the other Party within a reasonable period of time after the date of the institution of proceedings for the remedy, including any proceedings for review or appeal, and the failure to issue such a determination is not attributable to delays caused by the business persons concerned.

Article 11.8
Cooperation on return and readmissions

The Parties shall endeavour to cooperate on the return and readmission of business persons staying in the territory of a Party, where such business person is in contravention of the host Party's measures relating to temporary entry.