

IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006

INSTRUCTIONS FOR APPOINTING OFFICERS

Sections 15 – 25 of the Immigration, Asylum and Nationality Act 2006 set out the law on the prevention of illegal migrant working and came into force on 29 February 2008. These provisions replace those of Section 8 of the Asylum and Immigration Act 1996.

Appointing Officers must comply with these instructions to establish a statutory excuse against payment of a civil penalty if the Border & Immigration Service detects anyone working illegally whom you have appointed. The civil penalty can be up to £10,000 per illegal worker. As an Appointing Officer, if you know that you are employing a person who is not permitted to work in the United Kingdom, you will **not** be entitled to the excuse and could be prosecuted under the provisions of the 2006 Act. Conviction under this offence will carry the potential of an UNLIMITED fine and / or a prison sentence of up to two years. It is therefore vitally important that Appointing Officers satisfy themselves that any prospective employee can legally work in the UK by checking and photocopying documents produced by the prospective employee **before they commence employment**. Further help and guidance on this issue is available from the Personnel and Administration Directorate.

These instructions apply to appointments made on or after 29 February 2008 and explain what steps you should take to assure yourself that any documents produced by a prospective employee demonstrate an entitlement to work in the UK.

A prospective employee can produce a document, or documents, from one of two lists (Appendix 1). Documents from **List A** establish that the prospective employee has an ongoing entitlement to work in the UK. Documents from **List B** indicate that the prospective employee has restrictions on their entitlement to be in the UK. Documents must be checked and copied before the prospective employee starts work.

If a document, or documents, from **List B** are produced, **you must repeat the check on the employee at least once every twelve months**, until they provide a document or documents from **List A**. If they cannot provide a document or documents from List A, they must produce an extended or renewed document or documents from List B. If they are unable to obtain a document or documents from List A and cannot prove that the process of having a document or documents from List B extended or renewed is an ongoing process, they must be dismissed from your employment. These repeat checks of List B documents are required to retain the excuse. Failure to repeat the checks could therefore result in a civil penalty.

Documentary Advice

1. You must ensure that the prospective employee, or employee, provides a document, or documents, as specified in Appendix 1 of this document.
2. You must take all reasonable steps to check the validity of the document(s).
3. You must check that the expiry dates of any limited leave to enter or remain in the UK on any List B documents have not passed.

4. You must check any UK Government endorsements (stamps, visas etc.) to see if your prospective employee, or employee, is able to do the type of work you are offering.
5. If a document contains a photograph, you must satisfy yourself that the photograph is of the prospective employee or employee.
6. If a document contains a date of birth, you must satisfy yourself that the date of birth is consistent with the appearance of the prospective employee or employee.
7. You must take all other reasonable steps to check that the prospective employee or employee is the rightful owner of the document(s).
8. If the document is not a passport or other travel document you must take a photocopy of the **whole of the document**.
9. If the document is a passport or other travel document, the following pages of that document must be photocopied:
 - the front cover;
 - any page containing the holder's personal details including nationality;
 - any page containing the holder's photograph;
 - any page containing the holder's signature;
 - any page containing the date of expiry; and
 - any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question.
10. You **must** forward Appendix 1, indicating the document(s) seen, together with the photocopies of the documents to your Personnel Assistant, Support & Information Group, Finance Directorate for retention on the personal file.

APPENDIX 1

| | | | |
|---|--|-----------------------------------|-------------------|
| Vacancy Number (if applicable) | | Full Name of prospective employee | |
| Organisation | | Position | |
| LIST A | | | |
| Valid document(s) | | | Tick one box only |
| 1. A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom. | | | |
| 2. A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of the European Economic Area or Switzerland. | | | |
| 3. A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office or the Border and Immigration Agency to a national of a European Economic Area country or Switzerland. | | | |
| 4. A permanent residence card issued by the Home Office or the Border and Immigration Agency to the family member of a national of a European Economic Area country or Switzerland. | | | |
| 5. A Biometric Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom. | | | |
| 6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom. | | | |
| 7. An Immigration Status Document issued by the Home Office or the Border and Immigration Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |
| 8. A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |
| 9. A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |
| 10. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |
| 11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |
| 12. A certificate of registration or naturalisation as a British citizen, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |
| 13. A letter issued by the Home Office or the Border and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | | | |

APPENDIX 1

| LIST B | |
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| Valid document(s) | Tick one box only |
| 1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit. | |
| 2. A Biometric Immigration Document issued by the Border and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question. | |
| 3. A work permit or other approval to take employment issued by the Home Office or the Border and Immigration Agency when produced in combination with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office or the Border and Immigration Agency to the holder or the employer or prospective employer confirming the same. | |
| 4. A certificate of application issued by the Home Office or the Border and Immigration Agency to or for a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old when produced in combination with evidence of verification by the Border and Immigration Agency Employer Checking Service. | |
| 5. A residence card or document issued by the Home Office or the Border and Immigration Agency to a family member of a national of a European Economic Area country or Switzerland. | |
| 6. An Application Registration Card issued by the Home Office or the Border and Immigration Agency stating that the holder is permitted to take employment, when produced in combination with evidence of verification by the Border and Immigration Agency Employer Checking Service. | |
| 7. An Immigration Status Document issued by the Home Office or the Border and Immigration Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question, when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | |
| 8. A letter issued by the Home Office or the Border and Immigration Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question when produced in combination with an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer. | |

Please remember that if a document, or documents, from List B are produced, you must repeat the check on the employee at least once every twelve months.

In these cases, as Appointing Officer, you must ensure that you send a further Appendix 1 and associated documentary evidence to your Personnel Assistant, Support & Information Group, Finance Directorate for retention on the personal file.

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| IMMIGRATION, ASYLUM AND NATIONALITY ACT 2006 As Appointing Officer I have verified the above details as required and agree to submit a further Appendix 1, if required, every twelve months. | |
| I HAVE ENCLOSED COPIES OF DOCUMENTS SEEN AS REQUIRED. | |
| Name of Appointing Officer | Position |
| Signature | Date |