



TULIP RESOURCES

DOCUMENT VERIFICATION FOR ALL EMPLOYEES FEBRUARY 2013

ILLEGAL WORKING

It is essential that as an organisation you ensure the:-

- Prevention of illegal working
- Integrating identification verification into vetting and screening processes

The main reasons for this are:-

Under the Immigration, Asylum and Nationality Act 2006 (the "2006 Act") it is, in effect, the responsibility of every employer to ensure that its employees have the right to work in the UK.

The 2006 Act creates legal liability in two ways:

- Civil penalty under section 15 of the 2006 Act; and
- Criminal offence under section 21 of the 2006 Act

The civil penalty may be up to £10,000 per employee found to be working illegally

For the criminal offence under section 21, an employer may face:

- On indictment, imprisonment for up to 2 years, an unlimited fine, or both;
- On summary conviction, imprisonment for up to 6 or 12 months, a fine of up to £5,000 per illegal employee, or both

Where a company officer consents or connives, the officer, as well as the company, will be treated as having committed the criminal offence.

So be warned!

WHO CAN WORK IN THE UK?

Unrestricted:-

- British Citizens
- EU and EEA Citizens (including A8 but not A2 nationals)
- Non EEA permanent residents, who have indefinite leave to remain

Restricted rights:

- A2 nationals
- Non EEA nationals (with permission)

When assessing a candidate – look at the nationality on the documents you are presented with.

The reason for this is that some Lithuanians can travel on a Lithuanian passport but may have been living/born in a part of Russia. In this case, they will have a Lithuanian passport but their nationality will state Russian. They are NOT entitled to work in the UK.

EUROPEAN NATIONALS – EU16

Nationals from Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Malta, Netherlands, Portugal, Spain, Sweden

There are NO employment restrictions and all can be treated as British Citizens.

A document from the UKBA can be obtained to confirm the person is 'exercising treaty rights' and many individuals follow this route in order to help family members as it is classed as an immigration document.

A8 NATIONALS

Czech Republic
Estonia
Hungary
Latvia
Lithuania
Poland
Slovakia
Slovenia

Any employee from the above A8 countries no longer have to register to work. The Workers Registration Scheme closed on 30th April 2011. However, it is still important that you were compliant with the rules if your employee commenced working for you prior to that date.

A2 NATIONALS

Bulgaria and Romania

Currently (being phased out at the end of 2013) workers from Bulgaria and Romania need to apply for an Accession Workers Card. This is a separate document to a passport or ID card.

Blue card – no employment restrictions

Pink card – can only work as specified on the card (eg work permit)

Yellow card – restricted work rights (eg students)

EEA NATIONALS

Iceland

Liechtenstein

Norway

Switzerland

are not EU countries but they have the same rights as EU workers

NON EUROPEAN NATIONALS - POINTS BASED SYSTEM

You have to be registered as a sponsor in order to employ the following:

Tier 1

Highly skilled individuals to contribute to the growth and productivity

Tier 2

Skilled workers with job offer to fill gaps in UK labour

Tier 3

Low skilled workers to fill specific temporary labour shortages

Tier 4

Students

Tier 5

Youth mobility and temporary workers to satisfy non economic objectives

CHECKING DOCUMENTS – HOW TO COMPLY WITH UKBA REGULATIONS

Documents contained in List A or List B provide a statutory excuse, but an employer must:-

- Take all reasonable steps to check document validity – you can accept expired documents
- Retain copies for at least 2 years after employment ends
- Be satisfied the photograph is of the prospective employee
- Be satisfied the date of birth is consistent with the appearance of prospective employee
- Take all reasonable steps to ensure the prospective employee is the owner of the document
- Retain copies of ID documents which are not passports/travel documents

PASSPORTS

You should copy the following:-

- Front cover
- Any page containing personal details including nationality
- Any page containing the holder's photograph
- Any page with an expiry date
- Any relevant UK endorsements

Only the following passports are acceptable for a British Citizen:-



LIST A – these documents show an ongoing right to work

- Passport showing the holder is British Citizen, or a citizen of UK and Colonies having the right of abode in the UK
- Passport or national ID card showing the holder is an EEA or Swiss national
- Residence permit or registration certificate indicating permanent residence issued by the Home Office or BIA to an EEA or Swiss national
- Permanent resident card issued by Home Office or BIA to family member of EEA or Swiss national
- Biometric Immigration Document issued by BIA indicating the holder is allowed to stay indefinitely in the UK or has no time limit on their stay
- Passport or travel document showing the holder is exempt from immigration control, allowed to stay indefinitely in the UK, has right of abode in the UK or has no time limit on their stay

LIST A COMBINATION

Evidence of a permanent NI number (P45, P60, NI card)

AND ONE OF THE FOLLOWING:

- Immigration status document (an A4 letter) indicating the holder is allowed to stay in the UK indefinitely, or has no time limit
- Full UK, Channel Islands, Isle of Man or Ireland birth or adoption certificate – you must only accept the full/long version and not the shortened document
- Certificate of registration or naturalisation as a British Citizen
- Letter issued by Home Office or BIA indicating the holder is allowed to stay indefinitely in the UK

LIST B – these documents show a right to work for up to 12 months

- Passport or travel document showing the holder is allowed to stay in the UK and is allowed to do the work in question
- A Biometric Immigration Document indicating the holder can stay in the UK and is allowed to do the work in question
- Residence card or document issued by Home Office or BIA to a family member of an EEA or Swiss National

LIST B COMBINATIONS

The end date to be checked every 12 months

- Work permit or other approval issued by HO or BIA when produced in combination with either a passport or travel document showing the holder is allowed to stay in the UK and allowed to do work in question, or a letter from HO or BIA confirming the same.

- Certificate of application issued by HO or BIA to a family member of EEA or Swiss national stating the holder is permitted to take employment which is less than 6 months old when produced in combination with evidence of verification by BIA Employer Checking Service
- Application Registration Card issued by HO or BIA stating that the holder is permitted to take employment when produced with evidence of verification by BIA employer checking service.

LIST B COMBINATIONS

- Immigration Status document issued by HO or BIA indicating the holder can stay in the UK and is allowed to do the work in question when produced in combination with evidence of permanent NI number.
- Home Office or BA letter indicating holder can stay in UK and is allowed to do the work in question when produced in combination with evidence of a permanent NI number.

**NEVER ACCEPT PHOTOCOPIES OF DOCUMENTS
ENSURE YOU COPY THE ORIGINAL DOCUMENTS AND SIGN AND DATE AS APPROPRIATE**



STATUTORY EXCUSE AND FOLLOW UP STEPS

- Checks must be made BEFORE an employee begins employment to establish statutory excuse
- List B documents are generally “time limited” therefore a follow up check is required every 12 months in order to retain the statutory excuse

DOCUMENT VERIFICATION EQUIPMENT

You may wish to consider using the following:-

Magnifying Glass
Ultraviolet Light
Sophisticated Scanning Tools

Note: Many documents have watermarks – these should NOT react to ultra violet light

CONCLUSION

- Ensure you follow the UKBA guidelines
- Work with your UKBA contact (if you have one)
- Seek help if necessary – UKBA helpline
- Visit the UKBA website for a full guide

If you are in any doubt please feel free to contact Samantha Desforges before proceeding.