WORK PERMITS

BUSINESS AND COMMERCIAL

Guidance for Employers
From 1 April 2008
This guidance note provides information on the criteria of the Business and Commercial work permit arrangements and advice on how to make an application. They are updated regularly, therefore, please read them before filling in the application form. This supersedes all previously issued guidance. For the purpose of these guidance notes, the terms ‘we’, ‘us’ and ‘our’ refer to the UK Border Agency.

Please note: The arrangements in this Guidance Note will be superseded by the Points Based System (PBS) during the course of 2008/2009. Please check our website www.ukba.homeoffice.gov.uk for updates and further information.

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Section 1 – The Criteria

Overview

1. Decisions on Business and Commercial work permit applications are made against the following criteria, whether:

a) **there is a UK-based employer**; you can make a work permit application if you are a UK based employer and you need to employ a person to work in the UK. You should make a work permit application to employ a named person to do a specific job for you, normally on a full-time basis. The employee cannot use the work permit to take a different job or to work for a different employer.

b) **the individual is to be an employee of the UK employer**;
   I. if you wish to employ a person, you will need to do so on a Class 1 National Insurance basis.
   II. whilst in the UK we expect the person to be your employee. There should be a contract of employment between you and the employee. The contract of employment may be requested by the UK Border Agency.
   III. if the person is being transferred from an overseas parent or subsidiary branch of your company or is being seconded to you from an overseas company, it may be appropriate for the overseas contract of employment to continue but it should nevertheless be clear that there is an employer/employee relationship between the UK-based company and the person.

c) **there must be a genuine vacancy for an employee in this country**; the post must not have been created for the purpose of recruiting a particular person. We must also be satisfied that enough work exists for the person to undertake for the amount of hours and period that you have requested.

d) **the employer is responsible for the post**;
   I. We will only issue a work permit where it is clear that you have a clear responsibility for determining the duties and functions of the post. You may apply for a work permit for a person who will be employed to provide services to a client under a contract, which may mean that the person will need to work at the client's premises. The UK Border Agency will not issue a work permit where the employer is only supplying personnel.

II. You will need to demonstrate that you are responsible for the delivery of a particular job, project or piece of work with which the vacancy is associated. If your application involves providing a service to a client under a contract, please send us a copy of the contract between everyone involved.

e) **the gross pay and conditions of employment are equal or exceed those normally given to a ‘resident worker’** (see paragraph 2 for a definition) doing similar work;

f) **the employment complies with UK legislation and any requirements for registration or licensing necessary for the employment and you have ensured that you and your employee have obtained any necessary registration or licensing**;

g) **the extent to which the potential employee has a significant shareholding (10% or above, see paragraph 80) or beneficial interest in the UK-based company or connected business (this may mean a work permit may not be issued)**;

h) **the skills, qualifications and experience needed to do the job meet specific requirements**;

i) **the person is suitably qualified or experienced to do the job on offer and whether there is a need for them to do the job on offer**; and

j) **there are suitably qualified or experienced ‘resident workers’ available**.

2. For the purposes of these guidance notes a ‘resident worker’ is a person who is a European Economic Area (EEA) national (member countries are: Austria, Belgium, *Czech Republic, Cyprus, Denmark, *Estonia, Finland, France, Germany, Greece, *Hungary, Iceland, Republic of Ireland, Italy, *Latvia, Liechtenstein, *Lithuania, Luxembourg, Malta, the Netherlands, Norway, *Poland, Portugal, *Slovakia, *Slovenia, Spain, Sweden, UK) or has settled status in the UK within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999, and the Nationality, Immigration and Asylum Act 2002.

- Nationals of these countries other than Malta and Cyprus, who joined the EU on 1 May 2004 who wish to take employment in the UK do not require a work permit but are required to register under the Worker
Registration Scheme. They should apply for registration within one month of starting work for an employer in the UK.

3. For the purpose of these guidance notes Bulgarian and Romanian nationals are classified as resident workers where they are not subject to accession state worker authorisation. Details of the accession state worker authorisation scheme can be found in the guidance for Bulgarian and Romanian nationals available on our website at www.ukba.homeoffice.gov.uk.

The Employer

Establishing your company

4. If you have not applied for a work permit in the past five years you should send as much recent information as possible to establish that you are a UK-based employer, and that you are capable of offering a genuine vacancy. In all cases, other than for exempted employers\(^1\), you must send:

(a) evidence of registration with HM Revenue & Customs to pay PAYE and National Insurance. New employers need to send a copy of their NESI 8. Established employers need to provide either their P35 or a copy of their HM Revenue and Customs internet account book,

(b) a copy of your current Certificate of Employers Liability Insurance (this requirement does not apply to employers based in Northern Ireland).

(c) Care homes or similar establishments must also send:

I. a current hierarchy or organisation chart and staff list showing the position of the job on offer, all job titles, and which posts are filled by work permit holders,

II. a copy of the Commission for Social Care Inspection certificate or a copy of the Local Health Authority registration, if the CSCI certificate is not available, and

III. confirmation of the number of beds.

(d) Hotel and catering establishments must also send:

I. a current hierarchy or organisation chart showing the position on offer, all job titles, and which posts are filled by work permit holders,

II. evidence of registration by your Local Authority to serve food and,

III. copies of menus, wine lists.

(e) Educational establishments that are not on the Department for Innovation, Universities and Skills Register of Providers must also send a current prospectus and student register.

(f) Employers in IT companies must also send:

I. a current hierarchy or organisation chart showing the position on offer, all job titles, and which posts are filled by work permit holders, and

II. a copy of the current relevant service contract(s) that shows the scope of the service, signed by all parties.

5. We may also need to see other documents including, where appropriate, those required by regulatory authorities or by UK legislation. You should send as many of these as possible. These include:

- VAT returns,
- most recent company accounts, audited if possible,
- a copy of the landlord's signed lease of premises, or rental or purchase agreement
- company incorporation, fire, or food hygiene certificates or other registration or licensing documents,
- utility bills,
- business plans,
- balance sheets,
- contracts detailing your business,
- for IT and hotel and catering establishments, floor plans.
- Evidence that you have been actively operating or trading for at least 3 years.

This is not an exhaustive list and we may need to ask for further information that will support your application.

6. The UK Border Agency reserves the right to contact other authorities in order to verify the evidence received or to obtain any other information we consider necessary in order to consider your application. Where unsatisfactory evidence is provided the application may be refused. Where insufficient evidence is provided the application may be limited or refused. We also reserve the right to limit the period of the work permit to 18 months for all employers who have been actively operating or trading for less than 3 years.

\(^1\) Government Departments, Government Agencies, official public bodies, such as the BBC or ITC; Local Authorities, Grant Maintained Schools, Nationalised Industries, Health Authorities, NHS Trusts, State funded universities, colleges and research centres, but not private ones (unless nationally recognised), and, long established, well-known companies and organisations, such as British Petroleum or Oxfam.
7. Any photographs/documents received with the original application and returned to you may need to be re-submitted in the event of a further application.

**Conditions of employment**

8. The gross pay and other conditions of employment should be at least equal to those normally given to a ‘resident worker’ doing similar work.

9. All employees of UK based companies, regardless of whether they are paid overseas or in the UK, must be paid the National Minimum Wage (NMW).

   a) When considering if NMW is met, all the accommodation allowance can be added to the salary providing it is totally disposable, non-deductible and guaranteed to the overseas national (i.e. they are free to do with it as they wish).

   b) Where the accommodation allowance is deductible or is not disposable or not guaranteed to the overseas national (e.g. a hotel is provided for them or a house is provided with rent paid) then only a maximum sum determined by the Department for Business, Enterprise and Regulatory Reform (DBERR) can be added to the salary when considering if NMW is met. For further information on NMW you can telephone the DBERR on 0845 600 0678 or visit the DBERR website: http://www.dti.gov.uk/employment/pay/national-minimum-wage/index.html.

10. Provided NMW is met, all allowances will be considered in assessing the overall salary package against the going rate. Allowances must be guaranteed to the individual and where appropriate, similar to those normally paid to resident workers doing similar work.

11. In addition:

   a) The employment must meet the Working Time Regulations (WTR). For further information on WTR you can telephone the Advisory, Conciliation and Arbitration Service (ACAS) on 0845 747 4747 or visit the DBERR website at: http://www.dti.gov.uk/employment/employment-legislation/working-time-regs/index.html.

   b) You, the UK-based employer, will be expected to operate PAYE and class 1 National Insurance Contributions. See paragraph 77 of the General Information leaflet to get more information on NI contributions or tax.

   c) Payments made via an overseas service company or a third party whose main involvement with the worker is to hire the worker’s services to others, will not normally be appropriate because we expect a direct contract of employment between the person and their employer, a company based in this country.

   d) In cases where the worker is to be employed under the terms and conditions of their overseas branch, it is your responsibility as the employee’s UK based employer to ensure that you have checked with HM Revenue & Customs that arrangements for the deduction of the worker’s Income Tax and National Insurance are in place.

   e) The employment must also comply with any necessary requirements for registration or licensing.

   f) Deductions from the gross salary should be equivalent to those applied to resident workers.

**The Employment**

**Skills, qualifications and experience criteria**

12. To qualify for a Business and Commercial work permit the job must meet the following criteria:

   **EITHER** – the job must require the following **qualifications**:

   a) a UK equivalent degree level qualification; or

   b) a Higher National Diploma (HND) level qualification which is relevant to the post on offer; or

   c) a HND level qualification, which is not relevant to the post on offer plus one year of relevant full time work experience at National/Scottish Vocational Qualification (N/SVQ) level 3 or above;

   **OR** the job must require the following **skills**:

   d) 3 years full time experience of using specialist skills acquired through doing the type of job for which the permit is sought. This should be at N/SVQ level 3 or above.

13. You may be required to provide evidence to demonstrate the need for particular qualifications, and/or particular length of experience in the job.

14. Further information about N/SVQ levels are available on the Qualifications and Curriculum Authority website: http://www.qca.org.uk/.
The Worker

Skill of the worker

15. The person should have the skills, qualifications and experience to enable them to do the job on offer. Also, the qualifications and skills of the person should be in line with the criteria outlined in paragraph 12.

16. If the job on offer does not require specific qualifications, the person should be required to have at least three years experience of doing the job, at N/SVQ level 3 or above.

17. We do not take into account experience gained through working illegally in the UK.

18. For certain professions where the person has to be registered with a UK professional organisation, for example, Nursing and Midwifery Council (NMC), General Dental Council (GDC) or Royal College of Veterinary Surgeons (RCVS), we can accept the person's registration number instead of statements from previous employers.

Categories of applications

19. There are two main types of application under the Business and Commercial work permit arrangements - Tier 1 and Tier 2. The WP1 application form has two distinct sections that relate to each type of application. The information you should send for each category of application is set out below. For Sponsored Researchers use form SR1. For post graduate doctors and dentists use form PD1.

Tier 1 applications

20. Tier 1 applications involve a simplified procedure, which includes an exemption from conducting a recruitment search of the labour market within the EEA. Applications fall under Tier 1 in the following circumstances:

a) Intra Company Transfers (ICT)

21. This category is for multinational companies who are transferring employees to a skilled post in a UK-based branch of the company.

22. The UK company must have a direct link with the overseas company by common ownership (one company owns the other, or both must be part of a group of companies controlled by the same parent or holding company).

23. If a person owns shares in two or more companies this will not in itself form the basis for us to consider an application under the ICT category.

24. Please send us supporting documents to confirm the link between the overseas company and your organisation if you have not done so in a previous application. If you are using the e-mail application form, you can scan in this information as an attachment. However, the UK Border Agency reserves the right to request originals if we deem it necessary.

25. The post on offer must require an established employee with specific essential company knowledge and experience that is not available from the resident workforce. You should supply information on the particular knowledge and experience the person has gained as an employee of the overseas company. You should explain why this knowledge and experience is essential in order to carry out the duties and responsibilities of the post. If we do not consider that this knowledge and experience is essential for the post, we may require that the application be considered under another Tier 1 or Tier 2 category.

26. The transferring employee should have at least six months experience working for the overseas company.

27. If the person will not be working at the address of the employer given in the application form, you should explain why their specialist company knowledge and experience is needed at the working address.

28. If we consider the application against the Tier 2 criteria we may ask for additional information that may include evidence to support your reasons why you consider it to be inappropriate to conduct a recruitment search (see paragraph 72). If we deem that a recruitment search may be required we may refuse your application and you may need to complete a fresh application.

b) Board level posts

29. This category is for senior board posts or posts at an equivalent level. The person must have a personal daily input into directing the company at a strategic level, and should have substantial senior board level experience (normally a minimum of three years experience at the level of the post on offer).

30. If it is not clear that the post qualifies under this category please send a job description, references and a hierarchy chart showing the person's position and level within the company.

c) Inward investment

31. This category is for new posts that are essential to an inward investment project which is bringing jobs and money to the UK. It is for investment in the UK by overseas companies, not individuals. The smallest investment needed to qualify under this category is £250,000.
32. For the first application please send us a business plan giving full details of the investment. Once we have accepted your first application you do not need to give us the details again for other applications. However, we may ask for a progress report. The business plan should show:

- details of the project, when it will take place and how long it will last;
- the number and types of jobs that will be created;
- the amount that will be invested; and
- reasons why the investment depends upon employing the person.

33. This category is for occupations where we acknowledge that suitably qualified/skilled people are in very short supply in the EEA. The occupations that we include in this category change over time to reflect labour market trends.

34. For some occupations listed we require an individual to have higher level qualifications and experience than those outlined in paragraph 12. You can get details of those occupations which are currently included in this category by phoning 0114 207 4074, or from our website: www.ukba.homeoffice.gov.uk.

35. We do not consider under this category posts that need specific skills, knowledge and experience that are rare, if the occupation itself is not on the list of shortage occupations. In these cases you will need to make a full application (Tier 2).

d) Shortage occupations

37. For Sponsored Researchers use form SR1 to apply for new, change of employment and extension applications.

38. Evidence of sponsorship for the full period of the permit should be provided with the application. This can be in the form of a letter to the person confirming the details of the sponsoring body. This should include:

- the name of the person for whom the permit is sought
- the name of the sponsor
- the name of the host institution where the person will be based
- the title of the post
- details of the funding provided
- the period of the sponsorship required

39. You should fill in the Tier 2 section of the form if your application does not fall into one of the categories we have already mentioned.

40. You will need to provide the information outlined in paragraphs 41 to 44 and paragraphs 49 to 72.

Evidence of experience and/or qualifications required for Tier 2 applications

41. Please send us copies of the person’s academic or professional qualifications that show the person meets the skills criteria outlined in paragraph 12. If they are not in English, please send certified translations. Do not send originals. However, the UK Border Agency reserves the right to request originals and if necessary check their authenticity.
42. Please send references from past employers on their headed notepaper that verify the person’s relevant work experience. They must give the start and finish dates, details of the work and any experience that makes the person qualified to do the job. If they are not in English please send a certified translation. References that only describe the person to be of good character are not appropriate. (see also Section 4). We may also request evidence of the establishment overseas where the person gained their work experience.

43. If you send copies of references the UK Border Agency reserves the right to request originals and if necessary check their authenticity and content.

44. If you are using the e-mail application form, you can scan in this information as an attachment. However, the UK Border Agency reserves the right to request originals and if necessary check their authenticity.

Post Graduate Doctors and Dentists

45. This category is for postgraduate doctors and dentists to undertake further/continuing training in the UK in the NHS and is part of the Tier 2 category of the work permit arrangements. It only covers Foundation Programme, Foundation Officer 2, General Practice Registrar and Speciality Registrar level posts.

• Deaneries making a work permit application for postgraduate doctors and dentists should use form PD1 for a first application, extension application or where a doctor/dentist is changing Deanery or starting work/training at a new training programme level. You should supply us with full details of all the posts the doctor or dentist will occupy during their training and the standard covering letter. This will require only one work permit application to be submitted by the Deanery to cover the whole training programme.

• NHS Trusts making a work permit application for sponsored doctors, postgraduate doctors and dentists should use form PD1 for a first application, extension application or where a doctor/dentist is changing Trusts or starting work/training at a new training programme level. You should supply us with full details of all the posts the doctor or dentist will occupy during their training. No covering letter is required. This will require a new application each time the individual moves to a post in another Trust or starts a new training programme level. If the person is to undertake a Foundation Programme you should provide evidence from the Postgraduate Dean that the programme is recognised.

46. As with all other Tier 2 applications, you are expected to have conducted a recruitment search before making a work permit application (see paragraph 49).

47. If there are any subsequent changes to the address where the postgraduate doctor or dentist will be employed within your deanery, at any time during the validity of the work permit, or you want to inform us of posts they will occupy that you were unaware of at the time of your initial application, you should notify the relevant team referred to in paragraph 105. See technical changes of employment at paragraph 141.

48. If you want to employ a postgraduate doctor or dentist who already has a work permit in respect of a job/training with another deanery, a change of employment application will be required (see paragraph 133).

Please note: There is still provision within the Immigration Rules for post-graduate doctors and dentists to undertake their foundation programme without the need for a work permit provided they have completed their medical or dental studies in the UK. Further information can be found on the UK Visas’ website: www.ukvisas.gov.uk or our website at www.ukba.homeoffice.gov.uk.

Recruitment Search

49. You will need to show why you cannot fill the post with a ‘resident worker’ (see paragraph 2). In most cases you will also need to give details of your recruitment methods and give credible reasons why you did not employ a suitably qualified or experienced ‘resident worker’ or one who, with extra training, could do the job.

50. The recruitment methods you use, including advertising, should be appropriate to the job and represent a genuine attempt to employ a suitably qualified or experienced person.

51. If you have not met these conditions we may refuse an application and you may have to carry out another recruitment exercise before we reconsider the application.

52. If you are applying for a work permit to enable a person who has worked for you while here under another category of the Immigration Rules (for example as a Working Holiday Maker or student) to continue in that employment, you will still be required to show that you have sought to fill the post with a ‘resident worker’.

53. You should have advertised the job in the most appropriate medium for reaching suitably qualified or experienced ‘resident workers’. This may be a professional journal or the relevant employment section of a national newspaper (including The
Scotsman and The Herald for posts in Scotland, The Western Mail for posts in Wales and the Belfast Telegraph for posts in Northern Ireland). Advertising in Jobcentre Plus may be acceptable for certain occupations.

54. For jobs that require knowledge or skills of specialist language or culture it will not normally be sufficient for advertising only to have been placed in media aimed at specific ethnic groups or nationalities. In most instances the job advert should be advertised in English in at least one medium which is aimed at reaching all people with the skills required as well as the ethnic language and advertised in a publication which is readily available within the EEA. We will not as a matter of course be accepting solely ethnic language and ethnic publication job adverts.

55. The publications or other media you use should be readily available throughout the EEA.

56. Where, within the publication, you choose to have the advertisement displayed, and how prominently, should reflect the level and nature of the post.

57. Your job advertisement must include the skills, qualifications or experience needed. You should also normally include:

- the main duties and responsibilities of the job;
- the location of the job;
- an indication of the salary or salary range;
- the closing date for applications; and
- the name and address of the employer (but see paragraph 64 on the use of an agency).

58. If you do not include this information with your application, you should provide us with an explanation of why you have not done so.

59. An application will fall for refusal where you have refused to employ a resident worker solely because of a lack of qualifications, experience or skills (including language skills) that were not specifically requested in the job advertisement.

60. To make sure that the results of your advertising reflect the current availability of the skills you need, you should place the advertisement no more than six months before you apply to us.

61. You should allow four weeks for the whole recruitment process to be completed from the date the post was advertised before you send your work permit application.

62. You should supply the original advertisement. This should be the whole page of the publication, clearly showing the date and title of the publication used. The advertisement relating to the post should be clearly indicated. If the advertisement is not in English, please send a certified translation.

63. If you apply using our e-mail application form, you can send advertisements scanned in as attachments. However, the UK Border Agency reserves the right to request originals if we deem it necessary.

64. If the advertisement asked for responses to be sent to a PO Box number or a recruitment agency, please send written confirmation that the agency or representative has permission to advertise for you. In addition we will require evidence from the recruitment agency or publisher giving details of the responses received.

65. For certain senior level or specialist posts, we may accept the use of head-hunters as the most appropriate way of recruiting people. This will normally involve the head-hunter giving advice on suitable candidates after considering people within a well-defined eligible group.

66. Please send us details of the terms on which the head-hunter was employed to carry out the search, the methods used and any evidence to confirm this.

67. We will not normally accept recruitment carried out by an executive search service that finds possible candidates from a list of people who have registered with them.

68. You, the employer, may use an agency to assist in recruiting a person, provided the permit is to be issued to you, the employer, and not the agency, and, provided you can demonstrate that you have first advertised the post in accordance with the guidance provided in paragraphs 49 to 72.

69. If you use Jobcentre Plus advertising, please send us a copy of the Jobcentre Plus letter confirming details of the advertisement. We may on occasion, and where we deem necessary, check with the relevant Jobcentre Plus office details of the resident workers who applied.

70. If you use Internet advertising or any other way of recruiting, please send an explanation of why you consider this to be the most appropriate way of recruiting people in the EEA and evidence to confirm the method used, for example, invoices.

71. You will also need to demonstrate to us that the post on offer has been advertised on the Internet for a minimum period of one week and that the site used was the most appropriate.
72. If you decide that a recruitment search to find a suitably qualified experienced ‘resident worker’ is inappropriate you will need to send us evidence, preferably from an independent source, to support your case. In most cases we would expect you to have advertised the post.

Details of the responses to all methods of recruitment

73. You should give this information on the application form. It should include:

a) The total number of people who applied;  
b) The number short-listed for interview and;  
c) For each ‘resident worker’ who applied, reasons why they have not been employed.

Work for which we do not issue permits

74. We do not issue Business and Commercial work permits for:

- unskilled jobs; or  
- self employment.

75. We will not issue a work permit if the service that you, the employer, provide to a client is for the supply of personnel only. Consequently, we do not issue work permits to recruitment or employment agencies and similar types of business where they are employing a person solely to provide the person's services to one or more clients under a contract. This restriction also applies when the employment would be supplementary to the job for which the work permit has been issued (see paragraphs 148-150).

76. It is important to note that an individual who holds a TWES permit will not be allowed to transfer to work permit employment. For details on switching see section five on Immigration.

77. If the person is currently or was on a TWES permit for up to 12 months, they will not be eligible to return for a further work permit until they have spent 12 months outside the UK.

78. If the person is or was on a TWES permit for over 12 months, they will not be eligible to return for a further work permit until they have spent 24 months outside the UK.

79. Some flexibility may be allowed if the work permit is for a job in a shortage occupation or if the person will have been out of the country for the required period by the time they intend to take up the job.

80. A person will not normally qualify for a work permit if they have, or have had, a significant shareholding or beneficial interest in the UK company for whom they intend to work or in a connected business. They may qualify for a permit if their shareholding represents a very small proportion of the shares issued, typically no more than 10% and the shares were given to them as part of a pay package linked to their employment. They should not have a significant or controlling interest in the company by virtue of their shareholding.

81. There are separate immigration categories within the Immigration Rules that apply to individuals coming to the UK for specific purposes (for example Working Holiday Makers, self-employed people and students) and that allow people in certain circumstances to work without our permission. Some of these are described in paragraph 6 of the General Information leaflet, further information can be found on our website at www.ukba.homeoffice.gov.uk.
Section 2 – Making an application

How and when do I apply?

82. Where an application has been made to employ a person who is outside of the UK at the time of the application, we will issue a work permit, which should be forwarded on to the person overseas so that they can apply for entry clearance.

83. Where the person is already in the UK at the time of the application we normally issue a letter of permission rather than a work permit.

84. If a person who is present in the UK in an Immigration category other than work permit employment and they do not qualify for Further Leave to Remain under the Immigration Rules on switching (see paragraph 200), you may wish to ask for a work permit to be issued rather than a letter of permission for the person to use to apply for entry clearance when they return overseas. In such a case mark the appropriate box 39(b) on the WP1 application form.

85. Where a work permit is issued the person must return overseas and use the work permit to apply for entry clearance to re-enter the UK. They cannot work in the UK on the basis of the work permit alone. If they do not return overseas to gain entry clearance and begin/continue to work for the employer in the UK then they would be in breach of their immigration status and could be subject to removal from the UK. You should apply no more than six months before you want to bring them into the country.

86. Please use form WP1 when applying for first work permits, multiple entry work permits and for changes of employment; or use form WP1X for extensions (for extensions see section 3) to existing work permits (this does not apply to multiple entry work permits).

87. For Sponsored Researchers use form SR1 to apply for new, change of employment and extension applications.

88. For post graduate doctors and dentists use form PD1 to apply for new, change of employment or extension applications.

Please note: We reserve the right to check documentation that you supply with your application and if necessary verify the details provided. Submission of false or forged documents, or other misleading information, may result in refusal of applications.

How much does a work permit cost?

89. Applications for Business and Commercial work permits are subject to a charge of £190 for each application. Further details of the charge and the process, that will need to be followed when making applications under these arrangements, can be found in the Payment Guidance Notes. These are available from the distribution centre on 0117 344 1471 or from our website www.ukba.homeoffice.gov.uk

Where can I get a work permit application form?

90. There are three ways to complete the WP1 application form. These are through:

1. a website version you can download and complete on screen from our website www.ukba.homeoffice.gov.uk
2. a printed copy you can obtain from the distribution centre on 0117 344 1471 (between 9.00am and 5.00pm, Monday to Friday).
3. an electronic version, from our E-forms package, available from our website: www.ukba.homeoffice.gov.uk that you complete and send to us online.

What if I want to use a Representative?

91. If you make an application through a representative/agent who is not part of your business or organisation they must fill in and sign the representative declaration.

92. If you choose to use a representative, you must sign the completed application and verify that all the information in it is correct.

93. Representatives acting on behalf of an employer who are offering advice and services provided in connection with an Immigration Employment Document application will need to be registered with the Office of the Immigration Services Commissioner (OISC), unless they are exempt from the requirement to do so. This is a requirement of Section 84 of the Immigration and Asylum Act 1999. The work permit application form will require representatives to tick the appropriate box indicating whether they are registered or the basis on which they are exempt from the registration requirement (see paragraph 95 for OISC contact information).

94. The UK Border Agency reserves the right to contact the employer directly to verify details of work permit applications.

95. If you are not required to register because you are regulated by a designated legal professional body (as defined by the Immigration and Asylum Act 1999, for example the Law Society); or if you work
under the supervision of a registered person; you will
need to provide us with supporting evidence. For
example the name of the legal professional body and
your membership number.

96. Members of a designated legal professional body
that are not regulated by them for Immigration
purposes (for example some registered foreign
lawyers or non-practising barristers) should ensure
that they abide by the OISC codes of practice and
seek regulation with the OISC if they wish to continue
to provide immigration advice or services.

97. Anyone unsure of their status should contact the
OISC.

98. Employers dealing with their own staff or
prospective staff do not need to register with the
OISC.

99. If a representative makes an application on
behalf of an employer, and that representative is not
permitted to provide advice and immigration services
(by section 84 of the Immigration and Asylum Act
1999), the UK Border Agency will inform both the
representative and employer of the requirements of
the Act, and send further letters and permits (if
applicable) to the employer stated on the application.

100. Queries about OISC requirements should be
addressed to:

OISC
5th Floor
Counting House
53 Tooley Street
London SE1 2QN

Tel: 020 7211 1500
Fax 020 7211 1553
E-mail: info@oisc.gov.uk
Website: www.oisc.gov.uk

Who signs the declaration?

101. At the end of the WP1, SR1, PD1 and the
WP1X application forms, there are two declarations.
You must fill in and sign the employer declaration in
all cases. Persons who are the subject of a work
permit application may not sign the employer’s
declaration.

102. If you are completing the e-mail application form
you must sign the form by entering a PIN number
which is obtained by registering with us (see our
website: www.ukba.homeoffice.gov.uk for guidance).

103. If either yourselves or your representative fail to
include the signature or PIN number, the application
will be returned to you and will not be regarded as a
valid application. This may affect the timing of your
application.

104. If your organisation has no employee in the UK
with authority to sign (and the person does not
qualify for ‘sole representative’ status under the
Immigration Rules) the employer declaration may
be signed by a UK registered solicitor, (but not by
any other agent) with a letter of authorisation from
the employer.

How do I get advice on making
applications?

105. Further details on employing migrant workers
can be found at www.businesslink.gov.uk . The site
includes information on how to check staff, an
outline of the legal requirements, case studies
covering a range of sectors, a series of frequently
asked questions and advice about Romanian and
Bulgarian migrants.

106. For general enquiries, advice about completing
an application form or clarification of these guidance
notes please contact our Customer Contact Centre
at:

UK Border Agency
Customer Contact Centre
PO Box 3468
Sheffield
S3 8WA
Telephone: 0114 207 4074
Fax: 0114 207 4000
E-mail: wpcustomers@ind.homeoffice.gsi.gov.uk

107. Applications are allocated according to team
resource. Please do not contact teams for progress
checks, as this will hold up the consideration time. If
you wish to check the progress of your application
please visit our website at
www.ukba.homeoffice.gov.uk. This website is
regularly updated with useful information about the
processing times of applications.

108. The team that considers the application will still
write out to employers or their representatives
direct. If you wish to discuss these letters, please
contact the team stated on the correspondence.

Note 1 Please note that the contact details below
do not necessarily indicate the team dealing with
the applications; they are for contact purposes only.

Note 2 You should not send electronic
applications to any of the e-mail addresses below. If
you wish to submit an electronic application please
send it to: office.forms@ind.homeoffice.gsi.gov.uk.
109. For employers beginning with the letters;

A - B
Phone: 0114 207 6002
Fax: 0114 207 6003
E-mail: bt2.workpermits@ind.homeoffice.gsi.gov.uk

C - E
Phone: 0114 207 6004
Fax: 0114 207 6005
E-mail: bt3.workpermits@ind.homeoffice.gsi.gov.uk

F - I
Phone: 0114 207 6006
Fax: 0114 207 6007
E-mail: bt4.workpermits@ind.homeoffice.gsi.gov.uk

J - M
Phone: 0114 207 6008
Fax: 0114 207 6009
E-mail: bt5.workpermits@ind.homeoffice.gsi.gov.uk

N - R
Phone: 0114 274 3307
Fax: 0114 274 3200
E-mail: bt9.workpermits@ind.homeoffice.gsi.gov.uk

S - T
Phone: 0114 274 3308
Fax: 0114 274 3201
E-mail: bt11.workpermits@ind.homeoffice.gsi.gov.uk

U - Z
Phone: 0114 207 6880
Fax: 0114 207 6448
E-mail: bt13.workpermits@ind.homeoffice.gsi.gov.uk

If you wish to send your application by courier the delivery address is:

UK Border Agency
7th Floor
Fountain Precinct
Balm Green
Sheffield
S1 2JA

Whether you choose to use a courier or rely on the normal postal service, there will be a delay in processing your application if your application is sent to any address other than that given.

If you apply by using the E-forms package you should e-mail your application form and scanned attachments to us at: office.forms@ind.homeoffice.gsi.gov.uk. Please note: We reserve the right to request originals if we deem it necessary.

We will only accept application forms sent by the correct method.

110. If you have completed either the downloaded or the printed form please post it to:

UK Border Agency
PO Box 3973
Sheffield
S1 9BH

Where do I send the work permit application form?

Where will the UK Border Agency send the permit and any other letters?

112. We will send the work permit and all letters to the employer named on the application form unless you are using a solicitor or other representative. In most cases we will send the permit and all letters to them unless they are not permitted to provide immigration advice or service under section 84 of the Immigration and Asylum Act 1999 (see paragraph 93).
Section 3 – Multiple entry work permits, extensions, changes of employment, technical changes of employment and supplementary employment

Multiple Entry Work Permits

113. This type of permit can be applied for under any category of the Business and Commercial arrangements. It allows employees who are based overseas to enter the UK on a regular basis within the period of the permit to work for the same employer. This type of permit is not required by a person wishing to travel overseas for leisure or domestic purposes.

114. Possession of this type of work permit means there is no need for their UK-based employer to obtain a fresh work permit every time they are required to work in this country.

115. Multiple Entry Work Permits can be issued for a minimum of six months and a maximum of two years. Applications for this type of permit must be made whilst the person is out of the country.

116. The employee will not be allowed to undertake supplementary employment whilst on this type of permit.

117. Spouses or civil partners, unmarried or same sex partners and/or dependants (Please see the section ‘What if the person has dependants?’) of Multiple Entry Work permit holders must each have separate permission to work in, and/or, if necessary enter, the UK.

118. You cannot apply for an extension or a change of employment application; a fresh application must be submitted on a WP1 form if a further period is required (SR1 form for Sponsored Researchers) and the person must be out of the country whilst the application is made.

119. If you want to apply for a Multiple Entry Work Permit you should apply on a WP1 form (SR1 form for Sponsored Researchers).

Extension applications

120. If you want to apply for an extension to a work permit, you should apply before the person’s permission to stay in this country runs out. Please apply at least one month but no more than three months before this date.

121. If you wish to submit such an application more than 3 months before the person’s stay expires, we will expect you to provide details as to why this is required. We will only consider such applications in exceptional circumstances.

122. For extension applications we will normally have information about your organisation and the person, so we will not need company information, references or qualifications. However, please read the previous approval letter and send any information we have requested. If you do not provide this we may limit the period of extension.

123. If your company was new at the time of our initial approval, please send us the information described in paragraph 4. We may also need details of extensions to contracts in some cases.

124. A recruitment search will not usually be required if the person is continuing in the same employment.

125. If a work permit extension application has been submitted, the individual may continue working with you whilst this application is being considered provided they either:

- continue to have valid leave to remain; or
- have submitted a further leave to remain (FLR) application before their existing leave to remain expires.

126. Details of how and when an individual should submit an FLR application, for the purposes of extending their existing leave in line with a work permit extension, are provided under Section 5 of these guidance notes.

127. Where neither of the conditions detailed in paragraph 125 are met, an individual should not continue to work after their leave to remain has expired whilst we consider the work permit extension application.

128. If the work permit extension application is refused, the individual will not normally be able to continue working with you beyond the leave to remain date stamped in their passport.

129. Where a work permit extension application has been refused and you intend to submit a review request, you should refer to Section 5, paragraphs 195 to 199 of these guidance notes, which provide advice on the leave implications associated with such a course of action.

130. You cannot apply for an extension to a Multiple Entry Work Permit.

131. If you want to extend a work permit you should fill in the WP1X form (SR1 form for Sponsored Researchers) and state why and for how much longer you need to employ the person.

132. If you are using the E-form application form, you should tick ‘yes’ to Question 8 on the WP1.
This, in effect, converts the WP1 form to an extension application form.

**Change of employment applications**

133. If you want to employ a person currently in the UK, who already has a work permit in respect of a job with another employer or if you want the person to change jobs within your organisation you should apply to us for permission.

134. If the application involves a change to the duties and conditions of work from those on the previous work permit application (other than Technical Changes see paragraphs 141 -147), a search of the resident labour market will normally be required (see paragraphs 49 - 73) unless the application can be dealt with under the tier 1 category (for example, if the new post is on the list of shortage occupations).

135. You do not need to provide evidence of a recruitment search if we receive your application either before they leave their current employment or within 28 days of the persons last day of work with their previous employer, and providing they will be doing the same type of job. You must wait for our permission before the person can start working in their new role.

136. The information you need to send us will depend on the category of application. Please see paragraphs 19 - 48 for details. For most change of employment applications we will already have details of the person, so you do not need to send evidence of their qualifications and experience. However where the individual is taking a post where the duties or the skills required are different to what they were previously approved, we may require further supporting evidence.

137. If the person is currently on a Multiple Entry Work Permit, you will need to make a fresh application.

138. If a work permit change of employment application has been approved, the individual must apply to vary their leave to remain (FLR) to cover their change of employment. Details of how and when an individual should submit an FLR application, for the purposes of changing their existing leave in line with their work permit are provided under Section 5 of these guidance notes.

139. If you have any doubts about what constitutes a change of employment, please contact the relevant team referred to in paragraph 105.

140. For change of employment applications please use form WP1 (for Sponsored Researchers form SR1 or PD1 form for post graduate doctors and dentists). If completing an E-form application you should tick ‘no’ at question 8.

**Technical changes of employment**

141. If during the validity of the work permit, you wish to amend any personal details of your employee or make minor changes to the information we hold, you should write to the following address:

UK Border Agency
PO Box 3468
Sheffield
S3 8WA

142. You should send details of the intended change and provide the person’s worker reference number. For example, a technical change could be a change of name on marriage, change of your business address, or where both the employee and the specific job they were approved for, move location. Significant changes to the job, location or terms and conditions may require a change of employment application.

143. If we consider that the intended change can be treated as a technical change we will confirm this in writing and you should retain this letter with the original documents. If we do not consider it a technical change, a full change of employment application may be required (please see paragraph 133)

144. Please do not send passports when notifying us of a technical change of employment. We only require a copy of the leave to remain stamp, which can be found in the person’s passport.

145. If you do not inform us of such a change of address, then it is possible that the UK Border Agency, during a compliance check (see Section 4), will be unable to locate your company or the employee concerned. If this happens, we may revoke the work permit(s) concerned, and curtail the leave to remain in the UK of the work permit holder. This may lead to the work permit holder being removed from the UK by the UK Border Agency, and it may make it difficult for those concerned to return to the UK in any capacity in the future. It may also lead to difficulties for your company in having subsequent work permit applications approved, and in some cases, may cause the UK Border Agency to instigate legal proceedings against employers.

146. When a person’s employer is taken over by another employer, the new employer should write to us providing full details, a copy of the person’s leave to remain stamp, which can be found in the person’s passport and quoting the worker’s reference number.

147. If there is restructuring within the company as a result of the takeover you should send us details, of the restructure for example evidence of any redundancies. We will assess whether a new work permit application is required.
Supplementary employment

148. A person who has a work permit and wishes to take work additional to that for which the permit was issued may do so without further permission from us provided the work:

- is outside of their normal working hours;
- is no more than 20 hours per week;
- is in the same profession and at the same professional level for which the holder’s work permit was issued; and
- is not employed by a recruitment agency, employment agency or similar business to provide personnel to a client (see paragraph 75).

149. The work permit holder is not allowed to enter self-employment, set-up a business or join another business as a director or partner without obtaining further permission from us. If a work permit holder wishes to be self-employed or set up a business they will need to apply to us for leave to remain for this purpose. For further information please contact us on 0870 606 7766.

150. Multiple Entry Work Permit holders are not permitted to take supplementary employment.
Section 4 – Verifying applications and Abuse

Verifying Applications

151. We aim to consider your application swiftly. However, we must also be confident that applications meet the work permit criteria, and that the statements and information that employers and representatives provide are a true reflection of what actually happens whilst the work permit holder is in the job concerned.

152. The UK Border Agency reserves the right to verify details. If full contact details are not provided by you or your representative, we may refuse the application.

153. We will ask for a variety of material to support your case during the consideration of your application. In some cases, particularly if your company has not made an application before, or not for some time, we may also visit your company before we make a final judgement on whether to approve your application(s).

154. The application form will ask you to indicate from which British post overseas the person is likely to request entry clearance. The UK Border Agency may contact the relevant overseas post in order to verify references or the experience of the person subject to the work permit application. Where there is a doubt on the level of experience that can be gained from the previous employer providing the reference, we may request further evidence of the person’s experience.

155. The application form will query how the employer verified the skills of the overseas person in order to confirm that the overseas person has the skills not available from resident workers.

156. In some cases, if we have approved your work permit, we may also carry out a ‘compliance check’ to ensure the ongoing validity of the work permit.

157. The purpose of the compliance check is to make sure that the information given on the work permit application is a true reflection of the employment being offered. We will check that:

- The information given about the employer is accurate and complete.
- The information given about the job and conditions of employment are accurate and complete.
- The employer is able to offer the employment described on the application form.

158. You agree to co-operate with these checks when you sign either the employer or representative declaration page of the work permit application forms.

When do we carry out a compliance check?

159. Checks may happen either at the time you apply for a work permit (pre-issue), or once the work permit holder has taken up employment (post-issue).

160. Companies that are subject to a check may have been chosen at random, therefore being the subject of a compliance check does not mean that there is any doubt regarding the application submitted.

161. We may make these checks at any time during the application process or during the validity of a work permit.

What happens during a check?

162. The UK Border Agency Compliance Team carry out checks. If we plan to visit we usually, though not always, contact the employer to arrange a mutually convenient time. The Compliance Team will then gather material to support the information provided on the application form. We may also wish to speak to work permit holders, colleagues and managers involved in the work permit employment.

163. If we have not yet issued a work permit, then we will focus on verifying that the employer is capable of offering the employment specified on the application form. For example, we would check that the employer has suitable premises, has a genuine vacancy, that they have been unable to fill with a resident worker, and holds appropriate licences, etc to offer the employment as specified on the work permit application.

164. If we have already issued a work permit, we may make a check by telephone or letter and will ask for material to support the information provided on your application. This is to verify that the information provided on the application form was a full and accurate description of the conditions of employment being undertaken, and that the skills, experience, gross pay and duties of the overseas national are as described on the application form.

165. The Compliance Officers visiting your premises will have official UK Border Agency identification. If you have any doubts that their presence is bona fide, please speak to your usual UK Border Agency contact and ask to be put through to the Compliance Team or ring the telephone number shown in paragraph 173 of this guidance.

What happens after a check?

166. Where we have carried out a check before a decision has been made on your application, the Compliance Team will report their findings to the team dealing with your application within the UK Border Agency. They will then make the decision...
on your application using all of the information you provided.

167. The team responsible for making the decision on your application will let you know the outcome. This process will normally be complete within 4 weeks of the date of your application reaching us.

168. Where the UK Border Agency has already issued a work permit, the Compliance Team will write to you to let you know the outcome of the visit.

Discrepancies or issues discovered during checks

169. We anticipate that, on many occasions, checks will not reveal any problems. In these cases, we will notify you that we are satisfied that everything is in order.

170. Where there are discrepancies discovered before we have made a decision on your application, the relevant team will let you know whether we require further information before making their decision on your application(s).

171. If we find discrepancies on applications where the work permit has already been issued and the overseas worker has taken up post, we will work with you to take steps to bring the employment back in line with the work permit arrangements if possible.

172. However, there may be occasions where we find evidence to show that an employer or representative has knowingly deceived us, or where we cannot verify the statements made in the application. In these cases, the Compliance Team have the right to revoke the work permit(s), and consequently curtail the leave that the overseas national has to remain in the UK. Where appropriate, we may instigate prosecution of employers (or representatives) under the relevant immigration, or other, legislation.

173. The Compliance Team can be contacted at:

UK Border Agency
Compliance Team
PO Box 3468
Sheffield
S3 8WA

Tel: 0114 207 6819
Fax: 0114 207 6828
E-mail: CVT.workpermits@ind.homeoffice.gsi.gov.uk

174. Where an employer, or representative has been shown to attempt deception on occasions in the past, the UK Border Agency reserves the right to refuse to approve applications where that employer or representative is involved.

Allegations of abuse of the work permit arrangements

175. An employer who uses deception to obtain a work permit may be committing a criminal offence. The UK Border Agency’s Intelligence Unit in Sheffield deal with information in respect of abuse of the work permit arrangements, carry out investigations and, if appropriate, inform the relevant authorities of its findings.

176. All work permit applications are confidential between the employer and the UK Border Agency, and information submitted by the employer in support of an application cannot, therefore, be divulged to a third party except to other Government Departments and Agencies and Local Authorities to enable them to carry out their functions.

177. Each allegation of abuse of the work permit arrangements is treated in the strictest confidence. The Intelligence Unit will not be able to advise you of the progress or results of any investigation relating to this information. This is for the following reasons:

- The Data Protection Act (1998) - the provisions of this Act means we cannot disclose information we hold on an individual to a third party unless requested to do so by, or with the written consent of, the party concerned.

- The UK Border Agency’s Code of Practice - all investigations are pursued in compliance with the Data Protection Act (1998), the Human Rights Act (1998) and the Regulation of Investigatory Powers Act (2000). This prevents us giving feedback to people who provide information which lead to investigations, and if we were to breach this, it could compromise the success of any prosecution of an identified offender.

- Potential damage to ongoing investigations - the potential damage that disclosure might have on any investigation conducted by us or other government agencies.

178. If you have information about abuse of the work permit arrangements, you can contact the Intelligence Unit at:

UK Border Agency
Intelligence Unit
PO Box 3468
Sheffield
S3 8WA

Tel: 0114 279 3480
Fax: 0114 279 3482
E-mail: workabuse@homeoffice.gsi.gov.uk
Section 5 - Immigration

Immigration Clearance

179. Work permit holders who are either a British National (Overseas), a British Overseas Territories Citizen, a British Overseas Citizen, a British Protected Person or a person who under the British Nationality Act 1981 is a British subject are not required to gain entry clearance. However, individuals falling into the above categories who choose not to obtain entry clearance before travelling, should be aware that they will only be granted six months leave to enter. They will therefore need to apply for an extension to their work permit and further leave to remain before this six month period has elapsed. Both of these applications will incur the appropriate charges.

180. Work permit holders who are non-EEA nationals (including non-visa nationals) who wish to come to the UK for more than 6 months must obtain entry clearance before travelling. If clearance is granted it will usually be for the full period of their stay as stated on the work permit.

181. Work permit holders who have a permit for six months or less are not required to obtain entry clearance unless they are a visa national. If a work permit holder has not obtained entry clearance and they leave the Common Travel Area (the UK, Channel Islands, Isle of Man and Republic of Ireland collectively form a common travel area) during the validity of their work permit, their landing permission will lapse.

182. They may be allowed to re-enter during the period of validity of a work permit by presenting the permit again to gain leave to enter. However, the possession of a work permit does not guarantee re-entry to the UK. The decision to grant re-entry is for the UK Border Agency to make. Where an Immigration Officer refuses re-entry for example because the basis on which the work permit was first issued has changed, a new work permit would be required for re-entry to the UK.

183. If a work permit holder who needs to travel outside the Common Travel Area within the period of validity of their work permit has reason to believe their permit may not be accepted for the purpose of re-entry, they may wish to consider obtaining entry clearance before they travel.

184. If the person needs a visa, or any other form of entry clearance they must apply to their nearest British diplomatic post in their country of residence within six months from the date of issue of the work permit.

185. You can find out if someone needs a visa from any British Embassy, Consulate or High Commission overseas, or from the UKvisas website at www.ukvisas.gov.uk.

186. The original permit must be produced to support the visa application (photocopies are not usually accepted). Work permits are valid for six months from the date we issue them.

187. The issue of a work permit does not guarantee the issue of a visa and/or entry to the UK.

188. Some people will need to produce their work permit to get an exit visa from their own Government. You should allow time for this to happen.

189. It is not advisable to make any travel arrangements for the person you wish to employ until a decision on your work permit and, if applicable, their entry clearance or visa application has been approved.

What if the person has dependants?

190. With the introduction of the Civil Partnership Act 2004 the term partner now includes ‘civil partner’ and ‘same sex partner’. The term ‘dependant’ now includes ‘spouse’, ‘civil partner’, ‘unmarried partner’, ‘same sex partner’ and ‘child under the age of 18’.

191. The spouse or civil partner, unmarried or same sex partner and children of a work permit holder may be admitted to the UK as dependants. The spouse or civil partner, unmarried or same sex partner of a work permit holder will be given conditions of stay, which do not place any restrictions, other than those that would apply to a resident worker, on their taking employment or engaging in business. This normally applies when a dependant is granted more than 6 months leave. However, if a dependant is granted less than 6 months leave they will not normally be allowed to take up employment. Dependents over 18 have to complete their own form and pay the appropriate fee.

192. The exceptions to this are the dependants of Multiple Entry and Sectors Based Scheme work permit holders who, if they wish to accompany a work permit holder to the UK, must qualify for entry in their own right under another category of the Immigration Rules.

193. The dependants of Student Internships and General Agreement on Trade in Services work permit holders are allowed to come to the UK so long as they do so under the same rules as work permit holders.

194. A non-EEA national seeking entry to the UK as the dependant of a work permit holder must obtain prior entry clearance.
If the person is in this country how does this affect the application?

195. Once approval against the work permit criteria has been given the individual must apply to vary their leave to remain. This must be done using form FLR(IED), enclosing the appropriate fee (unless the individual is exempt from payment) and documents relevant to the application. It is important to ensure all relevant documentation is provided with the FLR(IED) form. Failure to do so will delay the application and may result in the application being returned.

196. For details on when and how to make a FLR application please refer to the FLR(IED) guidance notes, which are available on our website at: www.ukba.homeoffice.gov.uk or from the distribution centre on 0117 344 1471.

197. Individuals should normally submit their FLR applications as soon as possible following notification that the work permit application has been approved and in any event before their current leave expires or within six months of the date of approval of the work permit, whichever is sooner.

198. It is the individual’s responsibility to complete the form and pay the appropriate fee. However, there is no barrier preventing you, the employer, paying the fee to cover the cost of the FLR application and helping them complete the application form.

199. The person should not commence work until they have received approval for further leave to remain against the work permit decision, unless at the time the application was made the person had leave to enter or remain in an immigration category that permitted them to take full time employment with you in the United Kingdom; and the application was submitted prior to the expiry of any previous leave to remain here. If you are in any doubt, you should phone our Enquiry Bureau, on 0870 606 7766 or visit our website at: www.ukba.homeoffice.gov.uk.

The Immigration Rules on switching.

200. Under the current Immigration Rules, overseas nationals may apply to switch in to work permit employment without leaving the UK provided they satisfy the work permit criteria and have existing leave as:

- A student who has obtained a degree qualification on a recognised degree course at either a UK publicly funded further or higher education institution or a bona fide UK private education institution which maintains satisfactory records of enrolment and attendance; or
- A post graduate doctor or dentist or trainee general practitioner who holds a valid work permit approval for employment as a doctor or dentist; or
- An overseas national here to undertake the PLAB test, a clinical attachment or a dental observation post who holds a valid work permit approval for employment as a doctor or dentist; or
- A student nurse, overseas qualified nurse and midwife who holds a valid work permit approval for employment as a nurse; or
- A Working Holiday Maker who has been in the UK for more than twelve months who holds a valid work permit approval for an occupation listed on the UK Border Agency shortage occupation list, at the time of issue; or
- An overseas national on the Highly Skilled Migrant Programme; or
- An Innovator; or
- An overseas national on the International Graduates Scheme (formerly known as the Science and Engineering Graduate Scheme); or
- A participant of the Fresh Talent Working in Scotland scheme who holds a valid work permit approval for employment in Scotland; or
- A Tier 1 (General) migrant under the Points Based System.

201. The exceptional waiving of the in-country switching rules will only be considered where there are compelling circumstances, detailed in the application and relating to the individual, which would make it unduly harsh for them to return to their country of residence.

202. If you make a work permit application for a person who does not qualify under the Immigration Rules’ to switch into work permit employment (see paragraph 200), it will be considered and you will be charged for this consideration where appropriate. However, when the individual makes their application for Leave to Remain they should expect that this will be refused. Consequently they will not be permitted to start work with you. For further information on these switching rules please refer to our website: http://www.ukba.homeoffice.gov.uk.

How do I get further information on in-country immigration decisions and passports?

203. If you want advice about an in-country immigration decision or your passport, please contact us on:

0114 207 4074 – Customer Contact Centre
0114 207 6017 - Fax (for urgent requests and miscellaneous)
E-mail: wpukltr@ind.homeoffice.gsi.gov.uk
Section 6 – Frequently Asked Questions

What is Conversion/adaptation training or supervised practice?

204. People who qualified overseas in some professions may need to do conversion/adaptation training or supervised practice to meet UK statutory requirements to work here.

205. If you need to fill a vacancy by employing a person who must do conversion training, you should apply for a permit on application form WP1 under the Business and Commercial criteria.

206. If you are applying for a person who is additional to your normal staffing, and they are solely doing training with you to obtain registration or a qualification after which they will return overseas, you should apply under the Training and Work Experience Scheme on application form WP1. See the Training and Work Experience Guidance Notes for further details.

Nurses

207. People who qualified overseas as a nurse or midwife will be required to complete a period of protected learning or a period of supervised practice/adaptation training to meet UK statutory requirements to work here.

208. For an individual only required to complete the protected learning who also has an offer of a job in the UK, you should apply for a work permit on application form WP1 under the Business and Commercial criteria.

209. An individual required to do supervised practice or adaptation training should apply themselves using the FLR(O) form through the permit-free supervised practice immigration route.

For how long can I have a work permit?

210. The application must state how long you need to employ the person. We can issue work permits for up to five years but we may limit the initial length of approval, for example, if you are a new employer. After this period of limited approval you will be required to submit further up to date company information that shows you continue to be a UK-based employer that is able to support a genuine vacancy. We must also be satisfied that sufficient work exists for the entire period requested.

211. We advise that you take into account the time required to obtain a work permit and entry clearance before submitting a work permit application that specifies an end date (e.g. for contracts).

What if the person does not take up the post or the employment ends prematurely?

212. It is important that the UK Border Agency is notified at once if the person does not take up the post or if the employment of a work permit holder ends prematurely, whether the employee leaves voluntarily or is made redundant. We should also be informed if your company ceases to trade while you still have work permit holders in your employ.

213. You should inform us by completing the “Notification of Premature End of Employment” form. The completed form is to be sent to us. See paragraph 90 for details on how to obtain the form. If possible, you should also return the work permit.

214. If the employment for which the work permit was issued ends prematurely, or a person admitted as a work permit holder does not take up the employment for which the work permit was issued, the person may be deemed to no longer meet the requirement of the Immigration Rules under which they were admitted and action may be taken to curtail their stay, and the stay of any dependants, in the UK.

215. Where employment ends, the conditions attached to any remaining leave to remain will not confer permission to remain for the purpose of seeking alternative employment. If the person has found alternative employment, we may consider a work permit application from the new employer (see paragraph 133) but may not grant further leave to remain in the UK unless it is satisfied that the individual has taken steps to find new employment as quickly as possible.

In what circumstances can I request a reprint of a work permit?

Requesting reprints of work permits issued less than six months ago.

216. Reprinting work permits that are under six months old will apply in the following circumstances:

To correct errors and omissions

217. You, the employer, or your representative may request reprints of work permits and letters of permission from us to correct errors such as spelling mistakes or incorrect details such as mistyped passport numbers or dates of birth. Requests should be made in writing within one month of receipt of your work permit. Reprints will be free of charge once your written request is received, accompanied by the original work permit or letter of permission. If the original work permit is not returned or is returned over one month from when you received your permit then your request...
will be refused and a fresh application, with fee, will be required.

- Please note, however, that if you request a reprint to change a detail on the permit or letter of permission that was central to the consideration of the original application your request will be refused where that request was made based upon your error or omission. By ‘central’ we mean, for example, if the length of permit requested was wrong, or the job title, or the address at which the person works, or the salary offered differs from that stated in the original application. You will be required to submit a fresh application enclosing the fee.

To replace a lost work permit

218. You may request a reprint of a permit lost in transit (includes lost overseas) that has not been used to enter the UK. Requests should be made in writing or by fax to the original team who made the decision. Reprints will be free of charge. If you request a reprint of a work permit that has been lost and has already been used to enter the UK by your employee and the loss has taken place in the UK, we will issue a work permit certificate free of charge. The UK Border Agency reserves the right to undertake investigations to determine the facts of each case. If the original permit is subsequently found, it should be returned, as the reprinted permit supersedes it.

Requesting reprints of work permits issued over six months ago.

219. Reprints of work permits issued over 6 months ago will be free of charge, provided that the original work permit is returned and all other conditions, as outlined below, are met. If it is not returned then a fresh application, with fee, will be required. Reprinting work permits that are over six months old will apply in the following circumstances only:

Where there has been a delay in obtaining entry clearance.

220. You should provide evidence of the delay in this circumstance, i.e. a written notice from the visa section, of the entry clearance interview date, and, submit your request no later than one month after the date of interview. The UK Border Agency reserves the right to confirm the genuineness of evidence provided. This may involve a pre-issue compliance check. If you do not submit a timely application or provide evidence of delay your request will be refused and you will be required to submit a fresh application enclosing the fee.

Where delays arise from overseas nationals’ appeals against Entry Clearance Officers’ decisions not to grant leave to enter the UK.

221. You should provide evidence of the delay in this circumstance i.e. a copy of the Appeals and Immigration Tribunal (AIT) appeal determination letter and submit your request normally within six months of the date of the AIT letter. You should send a copy of the letter with your request.

222. Once the appeal decision is known, the original employer (or their representative) should request a reprint as soon as possible. You should not wait for the individual to be invited for interview by the ECO or to find out if the ECO will appeal against the appeal decision before requesting a reprint.

223. Requests submitted more than 6 months after the date of the AIT letter will only be considered if you can demonstrate an acceptable reason for the delay.

224. The UK Border Agency reserves the right to confirm the genuineness of evidence you provide. This could involve a pre-issue compliance check. If you do not submit a timely application or provide evidence of delay, your request will be refused and you will be required to submit a fresh application, enclosing the fee.

225. In both circumstances outlined above, as there will have been a significant time delay between the issue of the original work permit and the reprint request:

- You should confirm, in writing, that the original job for which the permit was sought remains open for the overseas national, that there remains a genuine vacancy and that the terms and conditions of employment have remained the same;

- Furthermore, we will only accept reprint requests from the original employer/representative. Where this involves a representative who did not act on your behalf at the time of making the original application, we reserve the right to contact you directly.

226. If the person is in the UK and you find an error in the length of time granted in the letter of permission, you must inform the relevant team referred to in paragraph 109. This is because the person’s leave to remain is considered in line with any Immigration Employment Document (such as the letter of permission) that they hold. An error in the length shown may be also entered in the passport endorsement of Leave to Remain unless the error is corrected immediately.
What if I do not agree with the decision on my application?

227. The decision letter we send to you will explain the result of our consideration of your application. If we cannot approve your application the letter will explain why, and if appropriate give details of how to request reconsideration of the decision.

228. If our letter informs you that the information did not meet our criteria, and you wish to re-apply with further information, please complete either a WP1, SR1, PD1 or a WP1X form and include the appropriate payment. You should include further evidence to support your application including, but not restricted to, the issues raised in our letter.

229. If you think that the decision based on the information sent in with your original application was an error, and you wish us to reconsider your previous application, please write a letter to the following address;

UK Border Agency
PO Box 3468
Sheffield
S3 8WA

230. You should write within 28 days of the date of original decision letter and explain why you believe that the decision was wrong, with reference to the guidance notes, and make it clear that you are requesting a review of the decision on your previous application. There will be no fee for this consideration, providing you are not asking us to consider new information.

231. The Reviews Team will consider the grounds of refusal provided in respect of your initial work permit application and also undertake a full review of all other elements of the work permit decision.

232. Before making a decision we may contact the employer/representative for further information to clarify/support the evidence provided with the initial work permit application.

233. Where we identify further grounds for refusal the decision to maintain refusal of an application will stand even when the original ground for refusal has been overturned.

234. The Reviews Team will only accept two reviews per original application refused. If your initial review is unsuccessful, you will only be able to seek one further review of the original application. Any further requests for a review received for the same original application will be returned to you. If you wish to proceed with the application, please complete a fresh application form, enclosing the appropriate fee.

235. Occasionally, an individual will be required to submit their FLR application before the outcome of the work permit application. In these circumstances, the FLR application will normally be held until the work permit decision is made. At this point, unless we are advised otherwise, the FLR application will be considered and a decision made. If the work permit application is refused, this will result in the FLR application being refused.

236. Although there is a 28 day period to submit a request for review of the work permit decision, if you have already submitted the FLR application, it is important that you notify us of your employer’s intention to request a review immediately. If you do so, we will not make a decision on the FLR application until the review has been decided.

The Reviews Team can be contacted on:

Telephone: 0114 274 3188
Fax: 0114 274 3103
E-mail: reviews.workpermits@ind.homeoffice.gsi.gov.uk
Guidance for Employers

Guidance Notes available:

- General Information - product code GI(G)
- Service Standards - product code SS(G)
- Payment Guidance - product code PAY(G)
- Business and Commercial - product code BC(G)
- Training and Work Experience Scheme - product code TWES(G)
- Sports and Entertainments - product code SE(G)
- Sectors Based Scheme (non Bulgarian and Romanian Nationals) Extensions and changes of employment - product code SBS(G) - Only available on our website
- Sectors Based Scheme (Bulgarian and Romanian Nationals only) - product code SBSBR(G)
- Student Internships - product code SI(G)
- General Agreement on Trade in Services for UK Contractors - product code GUK(G)
- General Agreement on Trade in Services for Overseas Employers - product code GOE(G)

If you wish to request copies of the guidance notes please contact our distribution centre on Tel: 0117 344 1471 or visit our website at: www.ukba.homeoffice.gov.uk

Welsh, Braille, large print, and other alternative formats are available on request. For further information on alternative formats, and how to obtain these, please contact the Customer Contact Centre on 0114 207 4074

Who can I contact for further Information?
For general information contact our customer contact centre on:

Telephone: 0114 207 4074
Fax: 0114 207 4000
E-mail: wpcustomers@ind.homeoffice.gsi.gov.uk

or visit our website: www.ukba.homeoffice.gov.uk

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