

Immigration Update

Christmas Special

With Christmas fast approaching and your staff taking annual leave, will you be employing workers to cover the festive period?

As an employer you have an obligation to check that all staff, whether permanent or Christmas temps, have permission to work for you.

All I want for Christmas is more staff

If you are taking on new staff then the following summary of who can work without permission in the UK may be useful.



- British citizens and citizens of the Channel Islands, the Isle of Man and Ireland.
- Commonwealth citizens with the right of abode in the UK.
- EEA nationals, however, A8 and A2 nationals may need to register with the UK Border Agency (see below).
- Individuals who are not EEA or Swiss nationals but are family members of nationals from EEA countries and Switzerland lawfully residing in the UK (however, they may require a residence card, registration certificate or family member residence stamp).
- Dependants of migrants who have entered the UK under one of the tiers of the Points Based System ("PBS").

'A8 nationals'

These are nationals of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. A8 nationals are required to register under the Workers Registration Scheme within one month of commencing employment unless exempt. (For a full list of exemptions, please visit the UK Border Agency's website: www.ukba.homeoffice.gov.uk.)

'A2 nationals'

These are nationals of Bulgaria and Romania. They are only able to work in the UK if they either a) hold valid Accession Worker Authorisation, such as an Accession Worker Card or Registration Certificate and/or work permit or b) are exempt from registering. (For a full list of exemptions, please visit the UK Border Agency's website.)

The content of this article is for general information only. As always, specific professional advice should be taken on each individual matter.

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Non EEA nationals

If you want to employ workers from outside the EEA, they will probably need to apply under the PBS. Such workers will only be eligible to work for you if you are a 'registered sponsor' or if they are highly skilled workers holding a valid visa.

I'm dreaming of a white Christmas ... without the risk of being fined

There are two lists of prescribed documents known as List A and List B documents which must be checked. These lists can be found on the UK Border Agency's website.

Irrespective of the worker's nationality, as an employer you must check the prescribed documentation in List A and/or List B before all prospective employees commence employment. There are three steps to follow:

1. Check either one of the original documents included in List A or two of the original documents specified in the combinations in List B. If the worker produces a List B document, carry out repeat checks at least once every 12 months if you continue to employ them after the holiday period.
2. Take reasonable steps to check that the document is valid. If you are uncertain, contact the UK Border Agency's helpline on 0300 123 4699.
3. Copy the relevant page or pages of the document in a form that cannot be altered (e.g. photocopy or scan) and retain them for two years after the worker leaves your employment.

The UK Border Force is coming to town

Failure to identify your worker's right to work in the UK may result in you being subject to a fine, imprisonment, or if you are a sponsor, your licence being withdrawn or downgraded.

You may be familiar with the recent highly publicised case involving Baroness Scotland; even public figures get it wrong and the Baroness was fined £5000 for not carrying out the above checks. That would certainly put a dampener on the Christmas spirit, so don't get caught otherwise it might not just be Santa Claus coming to town!

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