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Eligibility to Work in the UK RSC Training Session

Department of Human Resources
December 2008



Agenda

- Eligibility to work checks
 - Process for checking applicants
 - What to look for
 - Practical guidance
- Sponsoring non-EEA nationals
 - Process
 - Points based assessment
 - Guidance



Objectives

At the end of this session you will:

- Understand the legal position regarding eligibility to work in the UK
- Be aware of the evidence required
- Be aware of how to sponsor a non-EEA national
- Understand the University's responsibilities
- Feel reassured about your role



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Checking eligibility to work in the UK

In practice



Preventing Illegal Working

- Establish an excuse against liability
- Avoid racial discrimination
- Document authenticity
- Support from HR
- www.bia.homeoffice.gov.uk/employingmigrants



Possible groups of applicants

- EEA nationals (including Swiss)
- Non-EEA nationals



Checking eligibility - EEA (and Swiss) Nationals

- No changes – generally can work in the UK
- Exceptions
 - Worker Registration Scheme
 - Romanian and Bulgarian workers
- Dependants
- One-off vs annual checks?
 - No restrictions on working in UK – check once
 - With restrictions on working in UK – annual checks



Checking eligibility - Non-EEA Nationals

- Other visa status?
 - Dependant of EEA national?
 - Student – including post-study work
 - Tier 1 worker
 - Visitor
- Sponsorship under the points based system
- Annual checks



Checking Documents

- List A (documents which show an ongoing right to work)
- List B (documents which indicate eligibility to work in the UK with limitations)
- General checks
- Copies taken



General Checks

- Photographs consistent with appearance
- Date of birth consistent with appearance
- Expiry dates have not passed
- UK Government stamps and endorsements
- If documents presented have a different name, a third document should be requested
- Face to face

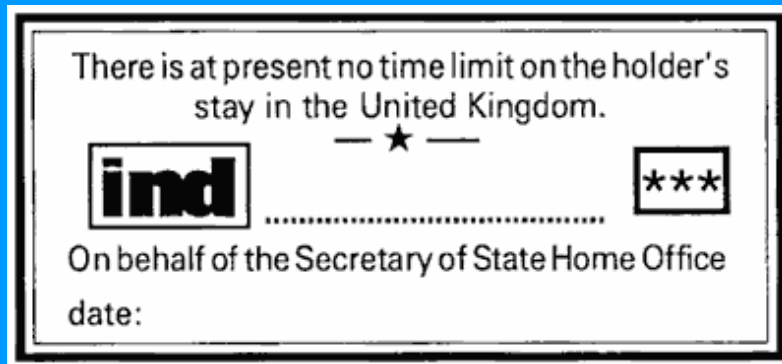


Copies Taken

- Front cover
- Personal details page
- UK Government stamp or endorsement
- Expiry date page



Indefinite Leave to Enter or Remain





Leave granted to Work Permit Holders and Students





Stamps and Endorsements which Prohibit Working in the UK

Leave to enter the United Kingdom on condition that the holder maintains and accommodates himself and any dependants without recourse to public funds and does not enter or change employment paid or unpaid without the consent of the Secretary of State for Employment, and does not engage in business or profession without the consent of the Secretary of State for the Home Department is hereby given for/until

.....

.....

on behalf of the Secretary of State
Home Office

Date

The holder is required to register at once with the police.

Leave to remain in the United Kingdom, on condition that the holder maintains and accommodates himself and any dependants without recourse to public funds, does not engage in employment paid or unpaid and does not engage in any business or profession, is hereby given

until

.....

on behalf of the Secretary of State
Home Office

Date

LEAVE TO ENTER FOR SIX MONTHS:
EMPLOYMENT AND RECOURSE TO
PUBLIC FUNDS PROHIBITED

IMMIGRATION OFFICER
* (****) *
20 SEP 1996
HEATHROW (*)



Leave to enter for/until

.....

No recourse to public funds



LEAVE TO ENTER FOR SIX MONTHS:
EMPLOYMENT AND RECOURSE TO
PUBLIC FUNDS PROHIBITED

IMMIGRATION OFFICER
* (*) *
11 JAN 1997
CHIEF INSPECTOR



Further Assistance

- Not an exhaustive list
- Customary HR Team
- www.bia.homeoffice.gov.uk/employingmigrants
- Remember – you're not expected to be an expert!



Points based system

- Replaces Work Permits
- Employer ownership/responsibilities



Benefits

- No ambiguity in application
- Swift process
- Internal management



How does it work?

- University is the “sponsor”
- 5 tiers of worker
- Points based assessment of applicants
 - Skills/Role
 - Qualifications
 - Salary
 - English language
 - Maintenance funds/savings
- In house processing – with Home Office audits



What are the different tiers?

- Tier 1 – highly skilled workers
- **Tier 2 – skilled workers with a job offer**
- Tier 3 – low skilled workers filling specific temporary labour shortages
- Tier 4 – students
- Tier 5 – temporary workers



Tier 2 – Eligibility criteria

- Pass mark is 70 points from 3 sets of criteria:
 - Attributes
 - Resident labour market test
 - Qualifications
 - Potential earnings
 - Maintenance
 - English Language skills



Criteria	What points are awarded for	Points Available
Resident Labour Market Test	If the job is on the shortage occupations list/named researcher	50
	If the job meets the resident labour market test	30
Qualifications	S/NVQ level 3	5
	Bachelor's or master's degree	10
	PhD	15
Potential earnings	£17,000 - £19,999	5
	£20,000 - £21,999	10
	£22,000 - £23,999	15
	£24,000+	20
Maintenance	£800 for the migrant and £533 for each dependant	10 NB Must score 10 points
English language skills	If the migrant is a national of a majority English speaking country or If the migrant has passed an English language test or If the migrant has a degree taught in English	10 NB Must score 10 points



Advertising

- List of acceptable publications
 - See Codes of Practice (generally www.jobs.ac.uk ok)
 - UoS website is also acceptable
- Adequate content
 - Job title, duties, location, salary range, skills/qualifications/experience needed, closing date
- How long?
 - Salary < £40k = 2 weeks
 - Salary > £40k = 1 week
- Timescales
 - Must be within previous 6 months of certificate of sponsorship being issued



Maintenance Funds

- £800 for applicant + £533 per dependant
- Held for 3 months prior to Certificate of Sponsorship being issued
- Exceptions:
 - Until March 2009 – 3 month rule waived
 - University can provide written assurance that we will support person (+ dependants) for first month in UK



English Language Skills

- Majority English speaking country
- Academic qualification taught in English
 - Must be verified as such
- English language skills test
 - “Competence of English to a basic user standard, including the ability to understand and use familiar everyday expressions, to introduce themselves and others and to ask and answer questions about basic personal details.”



Certificate of Sponsorship

- Issued by HR on receipt of all supporting documentation
- Is not a Certificate!
- Passed on to applicant to enable them to apply for leave to enter/remain in UK
- Should happen almost instantly.....



What happens after the Certificate is issued?

- Candidate seeks entry clearance
 - Must do so within 3 months of Certificate of Sponsorship being issued
- Start date is agreed
- Candidate starts work
- Manager monitors non-EEA employee



Manager's responsibilities

- Must inform UKBA via HR:
 - If employee doesn't start work on specified date (even if it's just delayed)
 - If employee is on unauthorised absence for more than 10 working days
 - If employment changes materially
 - If employment terminates
- Within 10 days of the event



Sponsored Researchers

- Latest advice.....
 - Dealt with under Tier 5 Government Authorised Exchange programme
 - Possible alternative: Academic Visitor visa up to 12 months leave to remain
 - Watch this space.



Tier 1 Highly Skilled Workers

- Self sponsored
- Higher points score needed
- Will present documentary evidence if apply
- Annual checks
- Also Tier 1 – Post Study Work (students)



Transitional arrangements

- Existing work permit holders working at the University
 - No action/impact until current work permit expires
- Work permit granted but individual is not yet in post
 - Work permit still valid – can start work under previous arrangements
 - No action/impact until work permit expires will continue to be valid
- Work permit applications received before 27 November 2008
 - Will still be considered under the previous terms
- Extensions to work permits after 27 November 2008
 - Will be undertaken on the new points based system – with the exception of the English language skills and maintenance funds criteria



What do recruiters have to do?

- Document the recruitment process
 - New form PBS1 to replace work permit form (WPA1)
 - Forward relevant info to HR
- Be aware of our duties as a sponsor
 - Inform HR within 10 days of key events



What do HR do?

- Issue Certificates of Sponsorship
- Keep records
- Support the recruiters



What further information is available?

- Guidance notes on HR web pages
- Customary HR Team
- www.ukba.homeoffice.gov.uk/employers/points



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Any Questions?