

# **SSSC Policy**

## **The Immigration Asylum and Nationality Act 2006**

### **Guidelines for Schools**

**April 2014**

# **The Immigration, Asylum and Nationality Act 2006**

## Guidelines for Schools

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## **The Asylum, Immigration and Nationality Act 2006**

With effect from the 29 February 2008 Sections 15-25 of the Immigration Asylum and Nationality Act came into force. This sets out the law on the prevention of illegal migrant working and replaces previous guidance on the Asylum and Immigration Act 1996.

Under the above legislation it is an offence to employ a person without immigration entitlement to work in the United Kingdom. It is essential that original documents are seen in all cases and they must be seen before employment commences and that the documents produced relate to the individual in question.

There are now two lists against which documents must be checked.

List A establishes that the person has an on-going right to work in the UK and List B indicates that the applicant or employee has restrictions on their entitlement to be in the UK.

You are required to check (refer to Steps 1-3 for checking documents p.10) and copy one, or a specified combination, of original documents from List A or List B. A copy will need to be taken and endorsed 'original seen', signed and dated by the person checking the original. This should be carried out for **all employees newly appointed to the School** (including relief staff) prior to the commencement of their employment.

If the employee presents a document from List B (that demonstrate that the person has been granted leave to enter or remain in the UK for a limited period of time), you must carry out follow-up checks by repeating steps 1-3 at least once every 12 months. A copy will need to be taken and endorsed 'original seen', signed and dated by the person checking the original

**A National Insurance number check is not an adequate check** and Appendix 3 sets out other documents that also do not provide an adequate check.

The NI number must be a permanent NI number the following do not provide evidence that a person has a permanent NI number;

- **A document with an invalid NI number that ends with the letters E to Z inclusive**
- **A document with a temporary NI number beginning with TN**
- **Card/certificate from the Inland Revenue under the Construction Industry Scheme**

All people and their immediate family who are nationals of the existing European Economic Area countries may enter and work in the UK the same as British citizens (see Group 2 full list of EEA countries p4.)

## **Group 1**

### **Countries with No Restrictions**

Czech Republic  
Estonia  
Hungary  
Latvia  
Lithuania  
Poland  
Slovakia  
Slovenia  
Bulgaria  
Romania

It is a criminal offence to employ an unregistered national from these countries for more than 30 days without retaining a copy of their registration application form (WRS) or certificate of registration.

The responsibility for applying for registration rests with the new employee, however it is clearly in the interests of the school to ensure full compliance with the registration scheme.

Employees can obtain the registration application form from the UK Visa and Immigration Agency by post, phone or a download from the website.

### **The school is not responsible for the payment of the registration fee.**

It is also an offence if an application for registration is subsequently refused by the Border and Immigration Agency, and the school continues to employ the individual.

Whilst the 2006 Act makes employers liable to civil penalties for employing illegal migrant workers, it also allows employers to have an excuse against payment of a civil penalty for doing so. Employers can have the excuse by carrying out specific checks on the original documents of prospective employees. Employers will only have the excuse for employees with time-limited leave to be in the UK if they carry out repeat checks at least once every 12 months.

## **Group 2**

### **European Economic Area (EEA) Countries**

Austria  
Belgium  
Cyprus  
Denmark  
Finland  
France  
Germany  
Greece

Iceland  
Ireland  
Italy  
Liechtenstein  
Luxembourg  
Malta  
Netherlands  
Norway  
Portugal  
Spain  
Sweden

Iceland, Liechtenstein and Norway are not members of the European Union. However the European Economic Area Agreement gives nationals of these countries the same rights to enter, live and work in the United Kingdom as EU citizens.

## **Non EU Workers**

### **Points Based System**

In March 2006 the Government announced its plans to adopt a new points based system for migration. The system covers people from outside the EU who are seeking to work or study in the UK. The new points based system for migration is based on the Home Office's expectation of the candidates' value to the UK labour market. Employers are no longer required to obtain work permits for overseas workers, but will be licensed to issue certificates of eligibility asserting that certain conditions are met justifying the appointment of a non EEA employee. The candidate must apply for entry clearance via a British Embassy, consulate or High Commission before they relocate to the UK. Overseas workers can also apply for leave to enter under any of the five tiers. Tiers 1 and 2 cover economic migrants, while tiers 3-5 cover migrants such as foreign students, volunteers, youth mobility schemes, and those who can fill temporary gaps in the UK labour market.

Sponsoring employers must apply for a licence by the 1<sup>st</sup> October at a cost of £1,000.

### **Certificates of sponsorship can be issued when;**

- The position being filled meets the skills requirements and is at level NVQ 3, or above,
- The person will be paid a market-rate salary,
- The person intends and is able to do the job in question. The sponsor should check the person has the necessary qualifications, experience and professional accreditations needed to carry out the job
- There is a genuine vacancy that cannot be filled by someone from the UK or the European Union
- The sponsor has, where required, carried out a resident labour market test by conducting an appropriate advertising process in accordance with the UK Visa and Immigration Agency's guidelines

- In the case of an intra-company transfer, the person has worked for the overseas group company for at least the past six months
- They are satisfied the person is likely to qualify, bearing in mind the Tier 2 requirements and that the person is likely to comply with their conditions of leave to remain in the UK. Tier 2 requirements are that they are a skilled worker with a job offer.

Information and advice is available through [www.gov.uk](http://www.gov.uk), in the publications section, on UK Visas and Immigration for Tier 2 & 5 migrants and on Employing Overseas Trained Teachers from Outside the EEA.

If you have any queries or need further clarification on the above please contact the Shared Services Centre (HR)

### List A

If the individual is not subject to immigration control, or has no restrictions on their stay in the UK, they should be able to produce a document or a specified combination of documents from the following list:

1. A passport showing that the holder or a person named in the passport as the child of the holder is a British citizen or as a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of the European Economic Area or Switzerland.
3. A residence permit, registration certificate or document certifying or indicating a permanent residence issued by the Home Office or the UK Visa and Immigration Agency to a national of a European Economic Area country or Switzerland.
4. A permanent residence card issued by the Home Office or the UK Visa and Immigration Agency to the family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Immigration Document issued by the UK Visa and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
7. An Immigration Status Document issued by the Home Office or the UK Visa and Immigration Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, **when produced in**

**combination** with an official document giving the person's permanent National Insurance Number and their name issued by a Government Agency or a previous employer.

8. A full birth certificate issued in the United Kingdom which includes the name(s) of a least one of the holder's parents **when produced in combination with** an official document giving the persons permanent National Insurance Number and their name issued by a Government agency or a previous employer.
9. A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents **when produced in combination with an official document** giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
10. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with an official document** giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with an official document** giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
12. A certificate of registration or naturalisation as a British Citizen, **when produced in combination with an official document** giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
13. A letter issued by the Home Office or the UK Visa and Immigration Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, **when produced in combination with an official document** giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

#### **List B – Documents which provide an excuse for up to 12 months**

1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
2. A Biometric Immigration Document issued by the UK Visa and Immigration Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
3. A work permit or other approval to take employment issued by the Home Office or the UK Visa and Immigration Agency **when produced in**

**combination** with either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office or the UK Visa and Immigration Agency to the holder or the employer or prospective employer confirming the same.

4. A certificate of application issued by the Home Office or the UK Visa and Immigration Agency to or for a family member of a national of European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old **when produced in combination with** evidence of verification by the UK Visa and Immigration Agency Employer Checking Service.
5. A residence card or document issued by the Home Office or the UK Visa and Immigration Agency to a family member of a national of a European Economic Area country or Switzerland.
6. An application Registration Card issued by the Home Office or the Border and Immigration Agency stating that the holder is permitted to take employment, **when produced in combination with** evidence of verification by the UK Visa and Immigration Agency Employer Checking Service.
7. An Immigration Status document issued by the Home Office or the Border and Immigration Agency to the holder with an endorsement indicating the that the person named in it can stay in the United Kingdom and is allowed to do the type of work in question, **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.
8. A letter issued by the Home Office or the UK Visa and Immigration Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question **when produced in combination with** an official document giving the person's permanent National Insurance Number and their name issued by a Government agency or a previous employer.

### **Steps 1 – 3 for checking asylum and immigration documents**

#### **Step 1**

Your prospective employee (or existing employee, if you are carrying out repeat checks) must provide to you:

#### **EITHER**

One of the single documents, or two of the documents in the specified combinations given from List A;

#### **OR**



- One of the single documents, or two of the documents in the specified combinations given from List B.

**You should only accept original documents.**

## **Step 2**

You must take all reasonable steps to check that the document is valid and satisfy yourself that your prospective employee or current employee is the person named in the document, and check that the documents allow them to do the work in question.

For each document presented, you should:

- Check any photographs are consistent with the appearance of the employee (this means you must see them in person); and
- Check any dates of birth listed are consistent across documents and that you are satisfied that these correspond with the appearance of the employee; and
- Check that the expiry dates of any limited leave to enter or remain in the UK have not passed; and
- Check any UK Government endorsements (stamps, visas, etc.) to see if your prospective or current employee is able to do the type of work you are offering; and
- Satisfy yourself that the documents are valid and genuine, have not been tampered with and belong to the holder; and
- Satisfy yourself that the documents are valid and genuine, have not been tampered with and belong to the holder; and
- If your employee gives you two documents which have different names, ask them for a further document to explain the reason for this. The further document could be a marriage certificate, a divorce decree, a deed poll or statutory declaration.

## **Step 3**

You must make a copy of the relevant pages of the document, in a format which cannot be subsequently altered, for example, a photocopy or scan. In the case of a passport or other travel document, the following parts must be photocopied or scanned:

- The documents front cover and any page containing the holder's personal details. In particular you should copy any page that provides details of nationality,

his or her photograph, date of birth, signature, date of expiry or biometric details;  
and

Any page containing UK Government endorsements indicating that the holder has an entitlement to be in the UK and is entitled to undertake the work in question.

Other documents should be copied in their entirety.

All candidates should be provided with list A and list B to enable them to provide relevant documentation at interview (please see appendix 5 for suggested wording for the interview letter). The documentation obtained should be retained on the employee's file within school. Documentation obtained for any candidate who is not successful should be destroyed.

This check needs to be carried out prior to the appropriate starters form being sent to the Schools' Team, Shared Services (HR and Payroll) with necessary information on nationality and confirmation that the relevant checks have been made in accordance with the legislation.

### **Paragraphs for inclusion in interview letter for all candidates**

With effect from 29 February 2008, sections 15-25 of the Immigration Asylum and Nationality Act came into force. In view of this it is necessary, prior to appointment, for you to produce documentation as specified on the attached lists. You will need to provide a document from List A that establishes that you have an on-going entitlement to work in the UK or a combination of documents from List A and B which provide 'an excuse' to work in the UK for up to 12 months.

The documents provided should be the original and not a copy. You should bring these original documents with you to interview. If you do not produce them at this time you will be required (should your application be successful) to bring the original documents into school at a later date, before your appointment can be confirmed.