

## Payroll

### Employing People and Illegal Working

Section 8 of the Asylum and Immigration Act 1996, requires all employers in the UK to make basic document checks on every person they intend to employ.

From 1<sup>st</sup> May 2004 changes to the types of documents needed to be checked have been made.

The Government has issued guidance on employing nationals from eight of the new European Union countries, which can be obtained from: -

<http://www.homeoffice.gov.uk/>

and the Employers Helpline 0845 010 6677

#### What does Section 8 mean?

- It makes it a criminal offence to employ someone aged 16 or over, who has no right to work in the UK or, no right to do the work the business is offering.
- It gives employers a statutory defence against conviction for employing an illegal worker, which is achieved by checking and copying certain original documents belonging to the employee.
- It obliges a business to ensure recruitment practices do not discriminate against individuals on racial grounds.

Before an individual starts working for a business, three steps need to have been undertaken. If ever in doubt, then guidance **MUST BE** taken from the Home Office or the Employer Helpline.

#### Step 1

- Ask a potential employee to provide **ONE** original document from List 1
- OR ask for **TWO** original documents from List 2

#### Step 2

The employers are required to satisfy themselves (“reasonable steps”) that the potential employee is the rightful owner of the documents: -

- Check photographs
- Check dates of birth versus the appearance of the person
- Check any expiry dates of documents
- Check any government stamps or endorsements
- Check any name changes (marriage/divorce/deed poll/adoption etc)

## Step 3

Copy all documents, in particular photographs and signatures, and also any Government documents allowing the potential employee to do the type of work being offered.

If checks reveal that the potential employee is not permitted to work, then employment must be refused.

The new arrangements will only apply to those employees who are due to start working for a business after 30<sup>th</sup> April 2004.

## List 1

- Passport showing that the holder is a British citizen or has the right of abode in the UK
- Passport showing that the holder is a national of a European Economic Area country or Switzerland.
- A residence permit issued by the Home Office to a national of a European Economic Area country or Switzerland.
- Passport or other document issued by the Home Office which has an endorsement stating that the holder has the current right of residence in the UK as the family member of a national of the first 2
- Passport or travel document endorsed to show the holder can stay indefinitely in the UK.
- Passport or travel document endorsed to show the holder can stay in the UK, and this endorsement allowed the holder to do the type or work offered if they do not have a work permit.
- An Application Registration Card issued by the Home Office to an asylum seeker stating the holder is permitted to take employment.

If satisfied by one of the above, no other documents are required from List 2

2 documents are required from List 2 in the following combination.

## List 2

- A. Proof of a permanent National Insurance Number and name P45, P60, National Insurance card. PLUS
- B. Full Birth Certificate UK
- C. Full Birth Certificate Channel Islands, Isle of Man or Ireland
- D. Certificate of registration or naturalisation
- E. A letter from the Home Office which indicates the holder can stay indefinitely in the UK
- F. An immigration status document
- G. A letter issued by the Home Office indicating the holder can stay in the UK and do the type of work being offered.
- H. An endorsed Immigration Status Document.

Or a combination of

- A. A valid work permit PLUS
- B. A passport or an endorsed travel document
- C. A letter issued by the Home Office confirming the named person can take the work permit employment in question.

Some documents have NEVER been acceptable

- A temporary National Insurance number beginning TN or ending E to Z inclusive
- Driving licence
- A utility bill