



WORK PERMITS

(BULGARIAN AND ROMANIAN NATIONALS ONLY)

**BUSINESS AND COMMERCIAL,
SPORTS AND ENTERTAINMENT AND
TRAINING AND WORK EXPERIENCE
SCHEME**

Guidance for Employers
From 03 August 2009

This guidance note provides information for employers wishing to employ Bulgarian and Romanian nationals under the work permit arrangements and advice on how to make Business and Commercial, Sports and Entertainment and Training and Work Experience (TWES) applications.

Please read this guidance before filling in the application form.

For Business and Commercial applications you should read sections 1, 2, 4, 6, 7, 8 and 9.

For Sports and Entertainment applications you should read sections 1, 3, 4, 6, 7, 8 and 9.

For TWES applications you should read sections 1, 5, 6, 7, 8 and 9.

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.

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Section 1 – Overview and general criteria for the work permit arrangements

Overview

1. If an application made under the work permit arrangements is approved, we will issue a letter of approval. This, on its own, does not give permission for a Bulgarian or Romanian national to work in the UK. To obtain authorisation the Bulgarian or Romanian national should, on receipt of the letter of approval, complete an application for an accession worker card on form BR3 and submit both to the UK Border Agency. Only on receipt of the Accession worker card can the person commence work with an employer. Form BR3 can be found on the UK Border Agency website and details of the accession state worker authorisation scheme can be found in the [guidance for Bulgarian and Romanian nationals](#).

2. Decisions on Business and Commercial, Sport and Entertainment and TWES work permit applications are made against the following criteria:

a) there is a UK-based employer; you can make a work permit application if you are a UK based employer and you want to employ a person from Bulgaria or Romania to work or undertake work-based training 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. In some cases, in the entertainment industry, the person's agent may be the employer. The employee cannot use the letter of approval 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 UK Border Agency may ask to see the contract of employment.
- 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) For Business and Commercial and Sports and Entertainment applications, 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 letter of approval where it is clear that you have a clear responsibility for determining the duties and functions of the post. You may make a work permit application 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 letter of approval 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 3 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 52) or beneficial interest in the UK-based company or connected business (this may mean a letter of approval 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) **For Business and Commercial and Sports and Entertainment applications**, there are no suitably qualified or experienced 'resident workers' available.

3. 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.

4. 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](#).

The Employer

Establishing your company

5. 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 employers¹, 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.

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.

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.

6. 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.

7. 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 letter of approval to 18 months for all employers who have been actively operating or trading for less than 3 years.

8. 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

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

10. 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, Innovation and Skills (BIS) can be added to the salary when considering if NMW is met. For further information on NMW you can telephone BIS on 0845 600 0678 or visit the [BIS website](#).

11. 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.

12. In addition:

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 [BIS website](#).

- a)** 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 for more information on NI contributions or tax.
- b)** 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.
- c)** 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.
- d)** The employment must also comply with any necessary requirements for registration or licensing.
- e)** Deductions from the gross salary should be equivalent to those applied to resident workers.
- f)** For sports and entertainment applications:
 - A copy of the employment contract outlining the terms and conditions of the employment and signed by both parties should normally be provided.
 - Venue contracts or letter of confirmation of an offer of employment in this country should also be provided.

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Section 2 - Business and Commercial work permit applications

The Employment

Skills, qualifications and experience criteria

13. To qualify for a Business and Commercial letter of approval 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 permission to work is sought. This should be at N/SVQ level 3 or above (please see paragraph 45 for additional guidance on applications which do not meet these requirements)

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

15. 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

16. 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 13.

17. 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 (please see paragraph 45 for additional guidance on applications which do not meet this requirement).

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

19. 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

20. 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

21. 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)

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

23. 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).

24. 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.

25. 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.

26. 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 (please see paragraph 45 for additional guidance on applications which do not meet this requirement). 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

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

28. 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.

29. 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 77). 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

30. 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).

31. 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

32. 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.

33. 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.

d) Shortage occupations

34. 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.

35. For some occupations listed we require an individual to have higher level qualifications and experience than those outlined in paragraph 13. For further details of those occupations which are currently included in this category please see the [shortage occupation list](#).

36. 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).

e) Sponsored Researchers

37. This category is for:

- Someone who has a job overseas, who is still being paid for that job, has come to the UK to undertake a period of research at an employer/host organisation and the funding for the research remains overseas.
- Someone who has a job overseas, who is still being paid for that job, has come to the UK to undertake a period of research at an employer/host organisation, but the funding is transferred to the UK employer or host.
- Someone who has a job overseas, who is still being paid for that job, has come to the UK to undertake a period of research at an employer/host organisation, but the funding is arranged and paid by UK employer or host.
- Someone who is on paid sabbatical, comes to the UK to undertake research at a UK employer/host organisation, funding is arranged and paid by the UK employer or host.
- Someone who is on unpaid sabbatical but receives funding from UK employer or host.

This is not an exhaustive list and the person you wish to employ may still be able to enter through the work permit route even though they do not appear to meet the criteria above.

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

39. Evidence of sponsorship for the full period of the approval letter 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

Tier 2 applications

40. 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.

41. You will need to provide the information outlined in paragraphs 42 to 44 and paragraphs 58 to 79.

Evidence of qualifications required for Tier 2 applications

42. Please send us copies of the person's academic or professional qualifications that show the person meets the skills criteria outlined in paragraph 13. 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.

43. 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.

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

Additional guidance on the consideration of work permit applications

45. Under EU law, Bulgarian and Romanian nationals must be treated no less favourably than migrant workers from outside the European Economic Area (EEA). If an application falls for refusal under the work permit criteria, we will also consider whether it would meet the equivalent criteria for the skilled worker tier of the Points Based System for non-EEA nationals in the following circumstances:

- The Employment

If the job does not meet the work permit skills criteria at paragraph 13, we will still consider the job

sufficiently skilled if it requires an N/SVQ level 3 qualification or above.

- The Worker

If the worker is qualified to do the job but does not meet the work permit skills criteria at paragraph 16, we will still consider them sufficiently qualified if their prospective salary is at or above £24, 000. If their salary is below this level, they must hold a minimum N/SVQ level 3 qualification or equivalent. Their qualification does not have to be relevant to the post on offer and we will not require the worker to have three years experience working at N/SVQ level 3 or above.

- Intra Company Transfers (ICT)

If the worker does not meet the work permit criteria for Intra Company Transfers at paragraph 26 but has at least six months experience working for the overseas company, we will still consider them to have the specific essential company knowledge and experience to meet the requirements of this category.

Post Graduate Doctors and Dentists

46. 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 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 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.

47. As with all other Tier 2 applications, you are expected to have conducted a recruitment search before making a work permit application (see paragraph 56).

Work for which we do not issue letters of approval

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

- unskilled jobs; or
- self employment.

49. We will not issue a letter of approval if the service that you, the employer, provide to a client is for the supply of personnel only. Consequently, we do not issue letters of approval 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 letter of approval has been issued (see paragraphs 168-169).

50. It is important to note that a Bulgarian or Romanian national who is subject to worker authorisation and who holds a TWES permit will not be allowed to transfer to work permit employment until they have spent 12 months outside of the UK.

51. Some flexibility may be allowed if the letter of approval 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.

52. A person will not normally qualify for a letter of approval 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 permission 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.

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Section 3 – Sports and Entertainment work permit applications

The Worker/Group Workers

Bulgarian and Romanian work permit (notes)

General criteria

53. We only issue Sports and Entertainments letters of approval for established sportspeople, entertainers, cultural artists and some technical/support people, whose employment will not displace or exclude 'resident workers'.

54. The requirements for applications for sportspeople are agreed between UKBA and the appropriate governing bodies. Please see the [governing body endorsement requirement sheets](#) for further details of which requirements apply to a particular sport, or contact the relevant governing body.

Skills and experience of the person or group

55. The skills and experience of people who may qualify are described below.

(a) Sportspeople

I) People who are internationally established at the highest level in their sport, and whose employment will make a significant contribution to the development of that particular sport in this country at the highest level. Coaches must also be suitably qualified at the highest level.

II) You will need to show that the person is currently internationally established at the highest level. Please provide evidence of their skill level and achievements.

III) The person and the employer must meet the specific criteria set out for each individual sport in the [governing body endorsement requirement sheets](#), however, a governing body endorsement is not needed for a Bulgarian or Romanian under the work permit arrangements. Governing body endorsement requirement sheets should be used in conjunction with these guidance notes when making the work permit application.

IV) For coaches please send copies of the qualifications to coach and evidence of any coaching experience they have. You should also provide a copy of their health and safety qualifications where this does not form part of the main coaching qualification.

(b) Entertainers

I) People who have performed at the highest level and have established a reputation in their profession and people/groups who are engaged to perform or do work which only they can do.

II) Some types of work in the entertainment industry must meet specific criteria set out in a [creative code of practice](#). The relevant code of practice should be used in conjunction with these

guidance notes when making the application.

Please provide relevant past publicity material or press reviews with the source clearly identified.

III) For groups, publicity material should clearly explain the status of each member of that group. Printed programme, record, compact disc or audio cassette material or their covers are also acceptable. If they are not in English please send a certified translation. Biographical articles in magazines or the press about groups or individuals are not acceptable.

Unit companies

I) A unit company is a large group of entertainers who have regularly performed together in their own country and have toured overseas as part of an established production before entering the UK. A group formed specifically for a UK tour will **not** be classed as a unit company.

II) Unit companies will normally be groups such as orchestras, ballet corps and theatre productions. Pop/music groups are not classed as unit companies.

III) You should supply publicity material on the Unit Company as a whole; this should include a letter from the unit company, on letter-headed notepaper, which names all the members and a yearly brochure for the coming season.

IV) You should also provide evidence to show that the unit company has performed previously, this may include relevant past publicity material, printed programmes and schedules or press reviews with the source clearly identified.

(c) Cultural Artists

I) People who are skilled in foreign arts that are rare or unavailable in this country and can make a contribution to the arts, cultural relations and cultural awareness.

II) Please provide relevant past publicity material or press reviews with the source clearly identified.

III) For groups, publicity material should clearly explain the status of each member of that group. Printed programme, record, compact disc or audio cassette material or their covers are also acceptable. If they are not in English please send a certified translation. Biographical articles in magazines or the press about groups or individuals are not acceptable.

IV) Where necessary any photographs/documents received with the original application and returned to you will need to be re-submitted in the event of a Review of the application.

(d) Technical/support people

Bulgarian and Romanian work permit (notes)

People whose work is directly related to the employment of an entertainer, cultural artist, sports person or a dramatic production. The person should have proven technical or other specialist skills. The UK Border Agency reserves the right to request material to demonstrate the skills and experience of non-performers if they deem it necessary.

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Section 4 – Recruitment Search for Business and Commercial and Sports and Entertainment applications only

56. You will need to show why you cannot fill the post with a 'resident worker' (see paragraph 3). 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.

57. 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.

58. 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.

59. 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.

60. 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.

61. The publications or other media you use should

be readily available throughout the EEA.

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

63. 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 73 on the use of an agency).

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

65. 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.

66. 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.

67. 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.

68. 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.

69. 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.

70. 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.

71. 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.

72. 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.

73. 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 56 to 78.

74. 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.

75. 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.

76. 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.

77. 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

78. 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.

Additional recruitment search guidance for Sports and Entertainment applications

79. In some sports, we recognise that there are likely to be shortages of 'resident workers' who are skilled at the highest level. We have agreed with the governing bodies and players' representatives that sports and entertainment applications for these

posts do not need to be supported by evidence of the availability of 'resident workers'. For further information see the [governing body endorsement requirement sheets](#).

80. For some employment, where an established entertainer who is to perform in their own right or where they are a cultural artist, the question of whether a 'resident worker' could do the job will not be appropriate.

81. In other cases you will need to show why you cannot fill the post with a 'resident worker'. This would include applications for residencies where the length of time required is for one month or more and people/groups are performing at the same venue or series of venues for the whole period.

82. The people/group will not normally be well known nor unique and usually perform at venues where the audience would go to listen to music rather than specifically go to see that artist/group.

The post must not have been created for the purpose of recruiting a particular person. Where these conditions are not met an application may be refused and the employer may be asked to carry out a further recruitment exercise before it is considered again.

83. For certain posts, we may accept the use of specialist recruitment companies as the most appropriate way of recruiting people. If the recruitment search involves specialist recruitment please send us details of the terms on which the agency was employed to carry out the search, the methods used and any evidence to confirm this.

84. If you have used other ways of recruiting please send an explanation of why you consider this to be the most appropriate way of recruiting and evidence to confirm the method used, for example invoices.

85. You should give details of your recruitment methods and give credible reasons why you did not employ a suitably qualified or experienced 'resident worker'.

Please note: The UK Border Agency reserves the right to check documentation that you supply to us 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.

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Section 5 – The Training and Work Experience Scheme (TWES)

Overview

86. The purpose of Training and Work Experience

Scheme (TWES) is to enable individuals to gain skills and experience through work-based learning, which builds on their previous education and training and which they intend to use on their return overseas. We issue TWES permits where a genuine need exists for a person to do:

- (a) work-based training for a professional or specialist qualification; or
- (b) a period of work experience.

87. If the person is to fill a position that would otherwise be filled by a 'resident worker' (see paragraph 3 for a definition) you should apply for a Business and Commercial letter of approval on form WP1.

88. You can make a TWES application if you are an employer based in this country and you are providing training or work experience in the UK. You should make a TWES application for a named person to undertake specific period of training or work experience for you, normally on a full-time basis. The person cannot use the letter of approval for different work, work experience or training or to work for a different employer.

General TWES Criteria

89. The person must be additional to your normal staffing requirements. They must not be filling a position that would otherwise be filled by a 'resident worker'. If the person is filling a vacancy you should apply for a Business and Commercial work permit on form WP1. This also applies to applications to employ trainee workers who will be filling a vacancy whilst undergoing on the job training, for example trainee accountants, solicitors and pharmacists.

90. We approve TWES permits on the understanding that the person intends to leave the UK at the end of the agreed period to use their new skills and experience. It is important to note that a Bulgarian or Romanian national who is subject to worker authorisation and who holds a TWES permit will not be allowed to transfer to work permit employment.

91. We can consider applications for one transfer between the TWES categories provided this is made no more than three months after the start of the first TWES permit.

92. Normally the person should already have an academic or vocational qualification at least at N/SVQ level 3 or equivalent in order to benefit from the level of training expected on TWES.

93. We expect the person to have an adequate command of the English language to enable them to benefit from the training or work experience.

94. The training or work experience offered should be for a minimum of 30 hours per week. This excludes any time for associated study.

TWES Training Criteria

95. The training should lead to a recognised professional or specialist qualification that requires an entry level qualification of at least N/SVQ level 3 or equivalent. The only exception to this is where the migrant is coming to the UK through a scheme set up as part of the [EU Lifelong Learning Programme](#), where the migrant may undertake vocational education and training at a lower skill level.

96. The person should have appropriate qualifications where this is necessary to do training of N/SVQ level 3 or equivalent.

97. Your company and the person who will be managing the training should be competent to provide the training. This will normally involve being registered or approved by the relevant professional body. You should send copies of the registration with the application.

98. The training should be completed in the shortest possible time. If you, or the person, end the training before a qualification is gained, you must inform us in writing (see paragraph 202 to 203).

99. We will normally issue the letter of approval for the average time expected to complete the training up to a period of five years (we may limit the length of approval for new employers who have not been able to provide us with enough of the information detailed in paragraph 5).

100. The individual will be allowed two attempts (or possible attempts) for each exam. Three attempts may be allowed in exceptional circumstances. We count each exam not taken at the expected time as a possible attempt.

101. Bulgarian and Romanian nationals who wish to train for a qualification available through full-time study do not require permission from the UK Border Agency. If they wish to work whilst studying, they must obtain a registration certificate. Details of how to apply for a registration certificate can be found in the [guidance for Bulgarian and Romanian nationals](#)

102. We issue TWES permits for a person to achieve a single qualification only.

103. The gross pay and other conditions should be comparable to those given to a 'resident worker' doing this level of training and should reflect the person's experience.

104. You should send:

(a) evidence of the person's qualification;

(b) evidence of any exemptions from exams;

(c) a copy of the training plan/programme agreed with the appropriate professional body (where appropriate);

(d) evidence from the appropriate professional body, where you have not previously supplied this, to show that the trainer or practice is approved to provide the training.

TWES Work Experience Criteria

105. The work experience should be at least at N/SVQ level 3 or equivalent. The only exception to this is where the migrant is coming to the UK through a scheme set up as part of the [EU Lifelong Learning Programme](#), where the migrant may undertake work experience at a lower skill level.

106. The person should:

(a) already have a relevant academic/ vocational qualification of at least N/SVQ level 3 or equivalent; or

(b) have 12 months previous relevant experience at N/SVQ level 3 to enable them to benefit from a work experience programme; or

(c) be a student studying at a college overseas for a qualification relevant to the proposed work experience who has reached a level of study at or above N/SVQ level 3.

Please note, individuals who are undertaking work at a lower skill level under a scheme set up as part of the [EU Lifelong Learning Programme](#) should be qualified, working toward a qualification or have experience of working at an equivalent or higher level to that required by the scheme.

Please send us copies of the person's academic or vocational qualifications. If these are not in English, please send certified translations. Do not send originals.

107. Please send references from past employers on their headed notepaper that verify the person's relevant work experience. References that only describe the person to be of good character are not appropriate. They must give the start and finish dates and details of any work experience undertaken. If they are not in English please send a certified translation.

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

109. If you are providing work experience in this

country to a student studying at a college overseas, (see paragraph 106(c)) where the entry level of the course being studied does not require N/SVQ level 3 qualifications, the university or college should provide written evidence demonstrating that the student has reached a level of study at or above N/SVQ level 3.

110. The work experience programme should describe the type and level of experience to be gained and how this will be supervised. The programme should be specific to the work experience provider/employer and appropriate to the skills/experience of the individual.

(a) The employer should be able to deliver all aspects of the programme. It should set out a detailed timetable for each stage of the programme and a description of the tasks to be done and who will be supervising the work experience.

(b) In general, we expect most work experience programmes not to exceed 12 months. If the work experience is likely to take longer than 12 months to complete you should explain this in your initial application.

111. We advise that you take into account the time required to obtain a letter of approval and accession worker card before submitting an application that specifies an end date (e.g. for contracts).

112. The gross pay and conditions should be in line with that of a 'resident worker' doing this kind of work experience.

Medical Training Initiative

113. This category is appropriate for overseas post-graduate medical specialists undertaking further/continuing training in the UK, normally within the NHS. It covers all schemes and arrangements sponsored or administered by the Medical Royal Colleges and similar organisations (for example, Commonwealth Scholarship Commission) for the training of overseas medical professionals, doctors or dentists. The individual is expected to return overseas to put into practice the training they have received in the UK.

114. MTI work permit applications can be made on behalf of those individuals who are administered or who are sponsored for the purpose of registration with the General Medical Council, and whose post is approved by the Deaneries, or other recognised medical authorities, to undertake a period of training or work experience, under the following categories:

- fixed term appointments (type II, Speciality Registrars)
- scholarships,
- locum appointments – training (LATs)

- medical professionals from overseas governments,
- head-for-head exchanges.

115. The employer of the overseas worker can be the sponsoring Royal College or appropriate regional Deanery, or an individual NHS Trust. Whichever arrangement is agreed upon the employer will need to provide evidence that includes:

- the training programme (including the trainer accreditation and contact details, timetable, key stages, course or module titles, location(s) and key outputs such as certificates of completion of training)
- evidence of GMC registration (PIN, or a certificate where this is available)
- the formal notification of sponsorship or endorsement.
- a completed Deanery form that states that the total salary/funding to be paid is appropriate for the training or work experience undertaken.

116. The salary and funding package may comprise:

- direct salary payments from the employer, whether in the UK or overseas,
- allowances from the UK or overseas guaranteed to the overseas worker (including those for accommodation). Where the basic salary to be paid will be below the NMW, special provisions apply for any accommodation allowance. Please see paragraph 10 or contact the DBERR for further information.
- stipends or scholarships from UK or overseas medical bodies or government organisations.

117. The employer is responsible for ensuring that all elements of the salary are paid, ensuring that the National Minimum Wage is met and that the post is for a minimum of 30 hours per week.

118. MTI1 work permit applications that are made in respect of unpaid, self-funded appointments will fall for refusal.

119. Where a NHS Trust or Deanery is the employer a signed and dated letter of sponsorship or endorsement from the appropriate Royal College or similar organisation must accompany the MTI1 work permit application.

120. MTI permits will be granted for the period of training to a maximum period of 24 months

121. Full details of all the posts your medical specialists will occupy during their training should

be supplied to us. The employer must notify us of any subsequent changes to the address where the employment will take place, or if posts will be occupied that were not envisaged at the time of the initial application, during the validity of the MTI permit.

122. These conditions do not apply where the employer is a NHS Trust and where the individual's training rotations are in hospitals within that Trust.

123. If there is a need to employ an individual who already has a MTI permit with another employer, a change of employment application will be required. Please see paragraphs 161 to 167, for further information on changes of employment.

124. The MTI category does not allow individuals to take up supplementary employment.

125. There is no need to demonstrate that the medical specialist will be additional to your normal staffing requirements as required by the overall TWES criteria.

126. To apply for an MTI permit for medical professionals, doctors or dentists sponsored or administered by the Royal Colleges or similar organisations, use form MTI1 for a first application..

Work for which we do not issue TWES permits

127. We do not issue TWES permits for:

- self-employment; or
- people in the sports and entertainment sector

128. A person will not normally qualify for a TWES 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 letter of approval 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.

129. We will not issue a TWES permit if the service that the employer is providing to a client is the supply of personnel only. Consequently, we do not issue TWES 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.

130. It is important to note that a Bulgarian or Romanian national who is subject to worker authorisation and who holds a TWES permit will not

be allowed to transfer to work permit employment until they have spent 12 months outside of the UK.

Some flexibility may be allowed if the letter of approval 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.

131. Please note, a Bulgarian or Romanian national who has been given permission to work and has worked under that permission on a continuous basis for twelve months, will obtain full movement rights as a worker under EU law. They are then exempt from the requirement to obtain a worker authorisation document. Such individuals can obtain a registration certificate confirming an unrestricted right to access the UK labour market. Details of how to apply for a registration certificate are available in the [guidance for Bulgarian and Romanian nationals](#).

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Section 6 – Making an application

How and when do I apply?

132. Where an application has been made to employ a person, we will issue a letter of approval which should be forwarded on to the person so they can apply for an accession worker card.

133. Where a letter of approval is issued, the person must not work in the UK on the basis of the letter alone. They must apply for their accession worker card before they start work.

134. For business and commercial and TWES applications use form WP1 when making a first work permit application and for changes of employment.

135. For Sports and Entertainment use form WP3 for new and change of employment applications.

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

137. For post graduate doctors and dentists use form PD1 to apply for new and change of employment 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 letter of approval cost?

138. There is no fee for Bulgarian and Romanian nationals.

Where can I get an application form?

139. You can download and complete all work permit application forms on screen from [the work permit section](#) of our website.

What if I want to use a Representative?

140. 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.

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

142. 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 application form requires 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 149 for OISC contact information).

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

144. 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.

145. 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.

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

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

148. 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 by contacting the employer stated on the application.

149. 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?

150. At the end of the WP1, WP3, SR1, PD1, and MT11 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.

151. 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?

152. 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 [www.businesslink.gov.uk](#), a series of frequently asked questions.

153. 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: accessionenquiries@ukba.gsi.gov.uk

154. 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 contact the Customer Contact Centre.

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

Where do I send the work permit application form?

156. Please post your completed application to:

UK Border Agency
Work Permit (BaRC)
PO Box 3468

Sheffield
S3 8WA

157. We are not responsible for any items sent to us whilst in transit to or from our offices.

Where will the UK Border Agency send the letter of approval?

158. We will send the letter of approval 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 letter of approval 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 148).

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Section 7 – Extensions, changes of employment, and supplementary employment

Extension applications

159. Once a Bulgarian and Romanian national has been given permission to work under the work permit arrangements and has obtained an accession worker card, the card will be valid for as long as the Bulgarian or Romanian worker remains in the employment for which the card has been issued. United Kingdom employers will not therefore need to seek an extension of the initial approval under the work permit arrangements.

160. Please note, a Bulgarian or Romanian national who has been given permission to work and has worked under that permission on a continuous basis for twelve months, will obtain full movement rights as a worker under EU law. They are then exempt from the requirement to obtain a worker authorisation document. Such individuals can obtain a registration certificate confirming an unrestricted right to access the UK labour market. Details of how to apply for a registration certificate are available in the [guidance for Bulgarian and Romanian nationals](#).

Change of employment applications

161. If you want to employ a Bulgarian or Romanian national who is currently in the UK, who already has a letter of approval 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. **Please note, if the person has been working for the previous employer on a continuous basis for 12 months or more, they no longer require permission to continue to work. Instead they should apply for a registration certificate (see paragraph 160).**

162. If the application involves a change to the duties and conditions of work from those on the previous work permit application, a search of the resident labour market will normally be required (see paragraphs 56 - 78) 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).

163. 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.

164. The information you need to send us will depend on the category of application. 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.

165. Please note that we do not require notification of technical changes of employment. For example, a technical change could be a change of name, change of your businesses 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.

166. If you have any doubts about what constitutes a change of employment, please contact our contact centre as in paragraph 153.

167. For change of employment applications please use form WP1 for Business and Commercial and TWES work permits, form WP3 for Sports and Entertainment, form SR1 for Sponsored Researchers, PD1 form for post graduate doctors and dentists or MT11 for the Medical Training Initiative.

Supplementary employment (Business and Commercial and Sports and Entertainment permit holders only)

168. A person who has a letter of approval and wishes to take work additional to that for which the letter 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 letter of approval was issued; and
- is not employed by a recruitment agency, employment agency or similar business to provide personnel to a client (see paragraph 49).

169. TWES permit holders may not undertake supplementary employment.

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Section 8 – Verifying applications and Abuse

Verifying Applications

170. 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 migrant worker is in the job concerned.

171. 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.

172. 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).

173. 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.

174. In some cases, if we have approved your application, we may also carry out a 'compliance check' to ensure the ongoing validity of the permission.

175. The purpose of the compliance check is to make sure that the information given on the 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.

176. 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?

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

178. 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.

179. We may make these checks at any time during the application process or during the validity of a period of approval.

What happens during a check?

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

181. If we have not yet issued a letter of approval, 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.

182. If we have already issued a letter of approval, 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.

183. 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 contact our Customer Contact Centre on 0114 207 4074 and ask to be put through to the Sponsor Management Unit.

What happens after a check?

184. Where we have carried out a check before a decision has been made on your application, we will report our 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.

185. 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.

186. Where the UK Border Agency has already issued a letter of approval, we will write to you to let you know the outcome of the visit.

Discrepancies or issues discovered during checks

187. 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.

188. 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).

189. If we find discrepancies on applications where the letter of approval 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.

190. 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, we have the right to revoke permission. Where appropriate, we may instigate prosecution of employers (or representatives) under the relevant immigration or other legislation.

191. 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

192. An employer who uses deception to obtain a letter of approval 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.

193. 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.

194. 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.

195. 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.go.uk

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Section 9 – Frequently Asked Questions

What is Conversion/adaptation training or supervised practice?

196. 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.

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

198. 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.

For how long can I have a work permit?

199. The application must state how long you need to employ the person. We can issue letters of approval 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.

200. Once a Bulgarian or Romanian national has been given permission to work and has worked under that permission on a continuous basis for twelve months, they will obtain full movement rights as a worker under EU law. Details of how to apply for a registration certificate can be found in the [guidance for Bulgarian and Romanian nationals](#)

201. We advise that you take into account the time required to obtain a letter of approval before submitting an 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?

202. 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 migrant worker 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 migrant workers in your employ.

203. 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 139 for details on how to obtain the form. If possible, you should also return the letter of approval.

In what circumstances can I request a reprint of a letter of approval?

Requesting reprints of letter of approval

204. We will reprint letters of approval in the following circumstances:

To correct errors and omissions

205. You, the employer, or your representative may request reprints of letters of approval 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 letter. Reprints will be free of charge once your written request is received, accompanied by the original letter of approval. If the original is not returned or is returned over one month from when you received your letter then your request will be refused and a fresh application will be required.

- Please note, however, that if you request a reprint to change a detail on the letter of approval 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 job title was wrong, 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.

To replace a lost letter of approval

206. You may request a reprint of a letter lost in transit (includes lost overseas) that has been used to apply for your accession worker card. Requests should be made in writing or by fax to the original team who made the decision. If the original letter is subsequently found, it should be returned, as the reprinted letter supersedes it.

What if I do not agree with the decision on my application?

207. 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.

208. 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, WP3, SR1, PD1, or MTI form. You should include further evidence to support your application including, but not restricted to, the issues raised in our letter.

209. 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
Work Permits (BaRC)
PO Box 3468
Sheffield
S3 8WA

210. 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.

211. The grounds of refusal will be considered in respect of your initial application and a full review of all other elements of the decision will be undertaken.

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

213. 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.

214. We 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 new application form.

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