

Do you employ construction workers? Stay on the right side of the law

Why you should only employ those who are able to work in the UK

It is a criminal offence to employ a person who:

- has no right to work in the UK; or
- has no right to do the work you are offering.

Staying within the law – avoid prosecution by being clear about right to work

- Employers should be satisfied that their employees are entitled to work in the UK.
- Therefore they should check and keep a record of certain documents **before** taking on an employee.
- By undertaking such checks and maintaining such records employers will be able to establish a legal defence in the event that an employee turns out to be an illegal migrant worker.
- CIS cards will not provide you with a legal defence and are **not** proof of the right to live and work in the UK.
- Potential employees should be asked to provide one of the original documents in List 1 overleaf or two of the original documents in List 2.
- Documents should be checked by the person responsible for recruiting employees.
- If you are worried about the validity of a document, ask for clarification.
- The defence will not apply where the employer **knows** the employee is not permitted to do the job in question.

Staying within the law – avoid discrimination

- You must ensure that in checking whether a potential employee is eligible to work in the UK, you do not discriminate on racial grounds, for example by only carrying out checks on those who are not or appear not to be British.
- Good practice is to ensure that **all** potential employees are eligible to work.
- If you operate discriminatory practices you may be found guilty of discrimination in an Employment Tribunal and face an unlimited fine.

What will happen if you don't undertake the appropriate checks?

- If your employee is found to be working illegally you could be found guilty of a criminal offence and fined up to £5,000 per person you have employed illegally, or in some cases face an unlimited fine.

It is good practice to ensure that ANY workers you engage, for however short a period of time, are entitled to work in the UK.

Further help

This notice reflects changes introduced in 2004 to section 8 of the Asylum and Immigration Act 1996 and is only a summary of the law. Full guidance is available electronically from the "**Preventing illegal working**" pages of the Home Office website www.ind.homeoffice.gov.uk, or in hard copy (free of charge) by contacting the Employer's Helpline on **0845 010 6677**. A code of practice on avoiding discrimination is also available from the Helpline. For advice on tax issues, contact www.inlandrevenue.gov.uk.

LIST 1 – One of the following original documents

- A passport showing that the holder is a British citizen, or has a right of abode in the United Kingdom.
- A document showing that the holder is a national of a European Economic Area country or Switzerland. This must be a national passport or national identity card.
- A residence permit issued by the United Kingdom to a national from a European Economic Area country or Switzerland.
- A passport or other document issued by the Home Office which has an endorsement stating that the holder has a current right of residence in the United Kingdom as the family member of a national from a European Economic Area country or Switzerland.
- A passport or other travel document endorsed to show that the holder can stay indefinitely in the United Kingdom, or has no time limit on their stay.
- A passport or other travel document endorsed to show that the holder can stay in the United Kingdom; and that this endorsement allows the holder to do the type of work you are offering if they do not have a work permit.
- An Application Registration Card issued by the Home Office to an asylum seeker stating that the holder is permitted to take employment.

If you have seen one document from List 1, you **do not** need to ask for any further documents.

LIST 2 – Two of the following original documents - Document A) plus one other of B) to H)

- A) A document giving the person's permanent National Insurance Number and name. This could be a: P45, P60, National Insurance card, or a letter from a Government agency.

Along with checking and copying a document giving the person's National Insurance Number, you must also check and copy only one of the following documents listed in sections B-H:

- B) a full birth certificate issued in the United Kingdom, which includes the names of the holder's parents; OR
- C) a birth certificate issued in the Channel Islands, the Isle of Man or Ireland; OR
- D) a certificate of registration or naturalisation stating that the holder is a British citizen; OR
- E) a letter issued by the Home Office which indicates that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay; OR
- F) an Immigration Status Document issued by the Home Office with an endorsement indicating that the person named in it can stay indefinitely in the United Kingdom, or has no time limit on their stay; OR
- G) a letter issued by the Home Office which indicates that the person named in it can stay in the United Kingdom; and this allows them to do the type of work you are offering; OR
- H) an Immigration Status Document issued by the Home Office with an endorsement indicating that the person named in it can stay in the United Kingdom; and this allows them to do the type of work you are offering.

LIST 2 – OR two of the following original documents - Document A) plus one other B) or C)

- A) A work permit or other approval to take employment that has been issued by Work Permits UK.

Along with a document issued by Work Permits UK, you should also see, check and copy one of the following documents listed at B-C:

- B) a passport or other travel document endorsed to show that the holder is able to stay in the United Kingdom and can take the work permit employment in question; OR
- C) a letter issued by the Home Office confirming that the person named in it is able to stay in the United Kingdom and can take the work permit employment in question.

You will not have the defence if you see one document from the first combination and one from the second combination.