
STATUTORY INSTRUMENTS

1996 No. 3225

IMMIGRATION

The Immigration (Restrictions on Employment) Order 1996

Made - - - - *18th December 1996*
Laid before Parliament *23rd December 1996*
Coming into force - - *27th January 1997*

The Secretary of State, in exercise of the powers conferred upon him by section 8(1) and (2) of the Asylum and Immigration Act 1996(1), hereby makes the following Order:

1.—(1) This Order may be cited as the Immigration (Restrictions on Employment) Order 1996 and shall come into force on 27th January 1997.

(2) In this Order “the Act” means the Asylum and Immigration Act 1996.

2.—(1) The conditions set out in Part I of the Schedule to this Order are the conditions specified under section 8(1) of the Act (no offence committed in employing a person who satisfies such conditions).

(2) The documents described in Part II of that Schedule are the documents specified under section 8(2)(a) of the Act (defence for an employer to show that a specified document was produced before employment began).

(3) The manner of copying or recording specified documents described in Part III of that Schedule is the manner specified under section 8(2)(b) of the Act (specified document to be retained by employer or a copy or other record to be made in a specified manner).

Home Office
18th December 1996

Ann Widdecombe
Minister of State

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SCHEDULE

Article 2(1)

PART I

CONDITIONS SPECIFIED UNDER SECTION 8(1) OF THE ACT

1. The employee has made a claim for asylum, which has not been finally determined or abandoned, and has been given written permission to work by the Home Office.

2. The employee's appeal under Part II of the Immigration Act 1971(2) is pending and, before notice of appeal was given, he had leave to enter or remain in the United Kingdom which did not preclude his taking the employment in question.

3. The employee is permitted to work under the Immigration Rules.

Article 2(2)

PART II

DOCUMENTS SPECIFIED UNDER SECTION 8(2)(a) OF THE ACT

1. A document issued by a previous employer, the Inland Revenue, the Benefits Agency, the Contributions Agency, the Employment Service, the Training and Employment Agency (Northern Ireland) or the Northern Ireland Social Security Agency which contains the National Insurance number of the person named in the document.

2. A passport which describes the holder as a British citizen or as having the right of abode in, or an entitlement to readmission to, the United Kingdom.

3. A passport which contains a Certificate of Entitlement issued by, or on behalf of, the Government of the United Kingdom certifying that the holder has the right of abode in the United Kingdom.

4. A certificate of registration or naturalisation as a British citizen.

5. A birth certificate issued in the United Kingdom, the Republic of Ireland, the Channel Islands or the Isle of Man.

6. A passport or national identity card, issued by a State which is a party to the European Economic Area Agreement, which describes the holder as a national of a State which is a party to that Agreement.

7. A passport or other travel document which is endorsed to show that the holder is exempt from immigration control, has indefinite leave to enter, or remain in, the United Kingdom or has no time limit on his stay; or a letter issued by the Home Office which contains that information.

8. A passport or other travel document which is endorsed to show that the holder has current leave to enter, or remain in, the United Kingdom and is not precluded from taking the employment in question; or a letter issued by the Home Office which contains that information.

9. A United Kingdom residence permit issued to a national of a State which is a party to the European Economic Area Agreement.

(2) 1971 c. 77.

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10. A passport or other travel document which is endorsed to show that the holder has a current right of residence in the United Kingdom as the family member of a named national of a State which is a party to the European Economic Area Agreement and who is resident in the United Kingdom.

11. A letter issued by the Home Office which indicates that the person named in it is a British citizen or has permission to take employment.

12. A work permit or other approval to take employment issued by the Department for Education and Employment or the Training and Employment Agency (Northern Ireland).

13. A passport which describes the holder as a British Dependent Territories citizen and which indicates that that status derives from a connection with Gibraltar.
Article 2(3)

PART III

MANNER OF KEEPING OR RECORDING A DOCUMENT SPECIFIED UNDER SECTION 8(2)(b) OF THE ACT

1. In the case of a passport or other travel document, the following parts are to be photocopied or scanned into a computer database, using the technology known as 'Write Once Read Many'–

- (a) the front cover;
- (b) the pages containing the holder's personal details including nationality;
- (c) the page containing the holder's photograph or signature; and
- (d) the pages containing the information referred to in paragraphs 2 (other than citizenship), 3, 7, 8 or 10 of Part II of this Schedule.

2. All other documents are to be photocopied or scanned into a computer database, using the technology known as 'Write Once Read Many'.

EXPLANATORY NOTE

(This note is not part of the Order)

Section 8 of the Asylum and Immigration Act 196 provides that an employer commits an offence if he employs a person subject to immigration control who has attained the age of 16 if the employee has not been granted leave to enter or remain in the United Kingdom, or if his leave is not valid and subsisting or is subject to a condition precluding him from taking up the employment. This offence is subject to an exception in the case of employees who satisfy conditions specified in an order made by the Secretary of State. part I of the Schedule to this Order contains those conditions.

Section 8 also provides a defence for an employer who shows that before the employment began there was produced to him a document which appeared to relate to the employee and to be of a description specified by order. part II of the Schedule to this Order describes those documents. In order to make good the defence the employer must retain the document or make a copy or other record of it in a manner specified by order. Part III of the Schedule describes the specified methods of copying and reading.

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