

Employing a Bulgarian or Romanian National in the UK.

From 1st January 2007, as European Economic Area (EEA) nationals, Bulgarians and Romanians have been able to move and reside freely in any EU Member State. Bulgarian and Romanian nationals wanting to work in the UK will need to **obtain authorisation to work** before starting any employment, unless they are exempt from doing so.

Section 1: Categories of employment requiring an Accession Worker Card

This authorisation will normally take the form of an Accession worker card. For certain categories of employment, the Bulgarian or Romanian national will be able to apply to the Home Office for an Accession worker card without the need for an employer to apply for a work permit. These categories are:

- (a) Airport based operational ground staff of an overseas airline
- (b) "Au pair" placements
- (c) Domestic workers in a private household
- (d) Ministers of religion, missionaries or members of a religious order
- (e) Overseas government employment
- (f) Postgraduate doctors, dentists and trainee general practitioners
- (g) Private servants in a diplomatic household
- (h) Representatives of an overseas newspaper, news agency or broadcasting organisation
- (i) Sole representatives
- (j) Teachers or language assistants
- (k) Overseas qualified nurses coming for a period of supervised practice
- (l) Voluntary workers

If the employment does not fall into one of these categories, the process for obtaining authorisation to work is in two stages:

- The UK employer first applies for approval of the employment under the work permit arrangements.
- The Bulgarian and Romanian national must then apply for an Accession worker card. See the further information available at:

<http://www.ukba.homeoffice.gov.uk/workingintheuk/eea/bulgariaromania/applying/>

The UK employer should complete the work permit application forms (WP1, WP3, SR1, PD1, MT11, WPSI and SB1) using the relevant guidance notes as below:

- Business and Commercial,
- Training and Work Experience,
- Sports and Entertainments,
- Sectors Based Scheme, and
- Student Internships.

The qualifying criteria published in these guidance notes must be followed by UK employers when applying for a letter of approval to employ Bulgarian and Romanian nationals to work in the UK. However, there are some aspects of the work permit arrangements that will cease to be relevant to Bulgarian or Romanian nationals. These include:

- Bulgarian and Romanian nationals will cease to be subject to immigration control. They will no longer require leave to enter or remain and we will therefore no longer issue Multiple Entry work permits for them;
- UK employers are not required to inform us of a Technical Change of Employment;
- An Accession worker card will be valid for as long as the Bulgarian or Romanian worker remains in the employment for which the card has been issued. UK employers will not therefore need to seek an extension of the initial approval under the work permit arrangements.
- There will be no restrictions on Bulgarian and Romanian nationals switching from one employment category into another employment category whilst in the UK (but if an individual changes jobs, their new employer must apply for another letter of approval from Work Permits (UK) and the individual must apply for a new Accession worker card).
- There are no restrictions on Bulgarian or Romanian nationals changing their status in the UK from a worker to a student, a self-employed person or a self-sufficient person;
- For applications under the Student Internships and Sectors Based Scheme there is no requirement for Bulgarian or Romanian nationals to be out of the country at the time of an application.

If an application made under the work permit arrangements is approved, we will issue a letter of approval. This, on its own, does not authorise work in the UK for a Bulgarian or Romanian national. To obtain authorisation the Bulgarian or Romanian national should take the following action:

- Upon receipt of the letter of approval complete an application for an Accession worker card on form BR3 and submit both to the Home Office.
- If an employer has submitted a work permit application and the letter of approval is pending, the Bulgarian or Romanian national should complete an application for an Accession worker card on form BR3.

Only on receipt of the Accession worker card can the person commence work with an employer. If a Bulgarian or Romanian national starts work before the card has been issued they will be working illegally.

If the Bulgarian or Romanian national has any dependants who wish to work, study, be self-employed or be self-sufficient in the UK they will need to read the 'Guidance notes for Bulgaria and Romania nationals' for details of the action required for their dependants to obtain authorisation.

Form BR3 and the 'Guidance notes for Bulgaria and Romania nationals' can be found on this website.

Section 2: The types of European Documentation issued to Romanians or Bulgarians and what it allows them to do.

Blue Registration Certificates These certificates indicate that the holder has full access to treaty rights and that their access to the domestic labour market is not restricted. *This group includes highly skilled migrants, spouse or civil partner of a UK national or a person settled in the UK, and those persons exempt from the requirement to obtain an Accession Worker Card.*

Yellow Registration Certificates These certificates indicate that the holder has limited access to the labour market for Students, self employed or self sufficient persons. This certificate will state the manner in which the holder is exercising a treaty right.

Purple Work Cards (aka Accession worker cards.) These are issued to those Romanian and Bulgarian nationals seeking employment in one of the categories listed in section 1. The documents issued for these categories do not allow the holder to undertake supplementary employment. If approved, a purple work card with a serial number beginning with the letter **H** is issued.

If the employment does not fall into one of the categories listed in section 1, an accession worker card will only be issued if the employer has obtained approval through the existing work permit arrangements. This means that the employer will first need to obtain a letter of approval of the employment from Work Permits (UK). Accession worker cards issued through the work permit arrangements do allow the holder to undertake supplementary employment. A purple work card with a serial number starting with the letter **G** is issued for these cases.

The following table summarises the above.

Type of Document	Who the document can be issued to	What employment it allows
A Blue Registration Certificate	Those Romanians and Bulgarians who are not subject to worker authorisation.	This gives the holder free access to the UK labour market. There is no restriction on who the person can work for or how many hours s/he can work.
A Yellow Registration Certificate	These are issues to the self-employed, self-sufficient persons and students. The certificate will indicate in which way the holder is exercising their treaty right.	<p>Where the yellow registration certificate indicates that the holder is a student they will be able to work for any employer for up to 20 hours per week during term time. During vacation times they can work for any employer full time if they wish.</p> <p>Where the yellow registration certificate indicates that the holder is a self-employed person, s/he can only work in that capacity.</p> <p>Where the yellow registration certificate indicates that the holder is a self-sufficient person, they will not be allowed to work.</p>
A Purple Work Card (with a serial number beginning with H)	These are issued to those Bulgarian and Romanian nationals that need worker authorisation for employment in one of the categories listed in Section 1.	These allow the holder to work for the employer noted on the purple work card. Supplementary employment is not permitted.
A Purple Work Card (with a serial number beginning with G)	These are issued to those Bulgarian and Romanian nationals that need worker authorisation for employment, but whose work does not fall into one of the categories listed in Section 1. This type of card is issued through the existing work permit arrangements.	

Section 3: Frequently asked questions

What is an Accession Work Card?

This will restrict the holder to the job specified on the work card which will be issued for skilled work that meets existing work permit requirements (including the availability of resident labour test) and lower skilled jobs in the food processing sector (up to a quota). Also for certain types of work for which work permits are not currently required e.g. au pairs, ministers of religion. Workers will be able to apply for an accession worker card before they come to the UK, if they have a job lined up in advance.

How do you get Work Permits for Skilled workers?

They are applied for by the UK-based employer and are usually required if you are going to the UK for employment purposes. They are usually only issued for skilled jobs. Applications and guidance notes can be found on the Working in the UK website at <http://www.ukba.homeoffice.gov.uk/>

What is the Seasonal Agricultural Worker Scheme?

It is managed through Operators – They recruit and issue Work Cards- Overseas. Individuals can work for up to six months. Agricultural work should be physical and done out doors. Such workers must be over 18 years of age.

What is the Highly Skilled Migrant Programme?

The Highly Skilled Migrant Programme (HSMP) is designed to allow highly skilled individuals with exceptional skills to come to the United Kingdom to seek work or self-employment opportunities. The individual makes the application. It is not necessary to have a specific job offer; a detailed business plan; create jobs; or invest in the UK. The HSMP uses a standard point-scoring system; 75 points are required for success in the scoring areas. These are: Qualification; Previous Earnings; UK Experience; and Age. In addition there is a mandatory English language section.

Can a Romanian and Bulgarian student work?

Romanian and Bulgarian nationals who can demonstrate that they are on a course of study at a place of study recognised by UK government can be issued a “yellow” registration certificate. The holder of a yellow registration certificate which highlights they are a student can work up to 20 hours a week during term time (or longer for vocational training) and full time during vacation time.

What about working as a self employed person?

EU law allows a citizen of the Union to establish themselves in Business in any member state. This means a Bulgarian or Romanian national will be allowed to be self employed in any Member State. Romanian or Bulgarian nationals who are self employed in the UK must register their business activity with the Inland Revenue and must register to pay National Insurance contributions as a self employed person. Working “cash in hand” may result in them being considered as an “illegal worker”

Can Bulgarians or Romanians married to British citizens work in the UK?

Yes, Romanians and Bulgarian nationals married to a British citizen will be exempt from the work authorisation scheme. They will be able to apply for a document confirming their status as the spouse of a British citizen and we will use the current marriage caseworking procedures (i.e. the same as we use for non EU nationals married to British citizen) to ensure that the marriage is bona fide.

Will agencies be able to obtain work permits?

Accession worker cards issued under the work permit criteria will not be approved if the employer is a recruitment or employment agency. This restriction also applies when the employment would be supplementary to the job for which the letter of approval has been issued.

In the agricultural sector, the Seasonal Agricultural Workers Scheme (SAWS) is managed by nine Operators under contract with the Home Office. The Home Office contract management team actively monitor the operators to ensure they meet their contractual obligations, which place particular focus on the health & safety of the migrant workers.

The Gangmasters Licensing Authority (GLA) was set up in April 2005 to curb the exploitation of workers in the agriculture, horticulture, shellfish gathering and associated processing and packaging industries. The GLA carries out inspections and compliance checks to ensure Licensing Standards are followed and that conditions are fair for legitimate businesses and workers across the sector.

As of 1 October 2006 it is illegal for a business to provide labour to the regulated sectors if they do not have a gangmaster licence. A public register listing the licensed Labour Providers is available online. For more details, please see www.gla.gov.uk.

With other categories of employment such as Au Pairs, whilst agencies may be involved in placing the individual, we will nevertheless require evidence from the employer that the requirements of the category are being met, such as number of hours worked, allowances and opportunities for study.

What are the penalties for Illegal working?

If found working illegally employees face an on the spot fine of £1,000 or prosecution and either a £5000 fine and/or 3 months imprisonment.

What does an employer face?

They could face prosecution and a £5000 fine. An employer who employs Romanians or Bulgarians working illegally will be liable to prosecution in a Magistrates court under the Accession (Immigration and Worker Authorisation) Regulations 2006. On conviction, the employer will be liable for a fine of up to £5,000. If the fine is not paid, the court can use bailiffs to seize goods and sell them. Alternatively, they can order the employer to be sent to prison.