

CHAPTER 5: SECTION 1 - WORK PERMIT EMPLOYMENT

Please note that this IDI does not contain up-to-date information and will be updated shortly. Details of the rules relating to work permit employment can be found in the [Immigration Rules](#).

ANNEX A: ON ENTRY – GENERAL GUIDANCE

CONTENTS

1. EXAMINATION OF WORK PERMIT HOLDERS

- 1.1. Validity of permits
- 1.2. Scrutiny of permits
- 1.3. Forged Work Permits

2. AGE LIMITS

- 2.1. Employment of children

3. ABILITY TO UNDERTAKE THE EMPLOYMENT

4. INTENTION TO LEAVE (SHORT TERM WORK PERMIT HOLDERS)

5. SUSPICION OF FALSE REPRESENTATIONS OR NON-DISCLOSURE OF MATERIAL FACTS

6. ACTION WHERE THERE ARE DOUBTS BUT INSUFFICIENT GROUNDS FOR REFUSAL

7. PERSONS COMING FOR EMPLOYMENT WITHOUT A PERMIT

- 7.1. Action when a passenger arrives without a permit, but a permit has been applied for
- 7.2. Permits issued but not produced

8. LETTERS OF APPROVAL IN LIEU OF PERMITS

9. RE-ENTRY OF PASSENGERS PREVIOUSLY GIVEN LEAVE AS PERMIT HOLDERS

- 9.1. Permit holders returning to same employment
- 9.2. Stateless permit holders returning
- 9.3. Change of employment
- 9.4. Permit holders joining British ships

10. WORK PERMITS ISSUED TO BRITISH OVERSEAS CITIZENS OR BRITISH PROTECTED PERSONS

11. PERMITS ISSUED BY OTHER AUTHORITIES WITHIN THE COMMON TRAVEL AREA

- 11.1. Permits issued by Northern Ireland authorities
- 11.2. Permits issued by Isle of Man authorities
- 11.3. Permits issued by the Channel Islands authorities
- 11.4. Permits issued by the Irish Republic authorities

12. MISCELLANEOUS CATEGORIES: OCCASIONS WHEN A WORK PERMIT IS REQUIRED

- 12.1. Postgraduate students working as researchers
- 12.2. Doctors and dentists who are in employment
- 12.3. Entertainers
- 12.4. Sportspersons

1. EXAMINATION OF WORK PERMIT HOLDERS

The possession of a work permit does not mean that leave to enter may be granted without proper examination. The holder of a work permit will normally be admitted for the period specified in the permit, but the immigration officer should first ensure that all the requirements of Paragraph 128 are met and that there is no

evidence to suggest that false representations were made or any material facts were not disclosed for the purpose of obtaining the permit, which would indicate refusal under Paragraph 320(15).

1.1. Validity of permits

Permits are valid for entry for six months from the date of issue. In the case of a visa national, the permit must be produced to an entry clearance officer within **two** months of the date of issue. The conditions of issue are printed on the reverse of the permit.

If the period of validity has expired the permit may still be accepted but any discretion in this respect is outside the Rules. The immigration officer may use his discretion **only** if he is satisfied that circumstances **beyond the holder's control** prevented his arrival before the permit expired and that the job is still open to him.

1.2. Scrutiny of permits

The personal details of the holder of a permit are as supplied by the prospective employer and may contain errors or may differ from the details as recorded in the passport eg the spelling of a name. These details, the date of the permit and stamp of the issuing officer should be checked by the immigration officer. If he is satisfied that any errors are not such as to invalidate the permit it should be accepted and the errors corrected. Otherwise no entry made by the issuing officer should be altered.

The immigration officer should check that the permit holder's occupation or grade is consistent with that for which the permit was issued. The occupation given in the holder's travel document or on the landing card is frequently an indication of the holder's true occupation and should not be incompatible with the job specified in the permit.

If an unstamped permit is produced, or if it appears not to be genuine, reference should be made to Work Permits (UK) . Should this be impossible at the time the case should be dealt with on the basis of all the information at hand and a report submitted.

1.3. Forged Work Permits

The holder of a forged work permit is to be regarded as not holding a valid work permit and refused under Paragraph 130, with reference to 128(i).

Where such a person admits to the forgery or where the forgery is reasonably apparent even to an uninitiated person, refusal should be notified on form IS 82D. Nothing should be said about rights of appeal in the United Kingdom but if a claim is pressed, reference should be made to HMI, Passenger Casework Section, before removal.

Where the forgery is neither admitted by the passenger nor reasonably apparent, form IS 82A should be served. This form is worded in such a way as to put the onus on the passenger to claim that he has a right of appeal. If the passenger presses his claim, agreement should be given to a preliminary hearing on the issue of forgery. It should not be suggested that this agreement constitutes acceptance that the document is genuine.

It may, depending on the circumstances of the case, be appropriate to refuse entry under Paragraph 320(19) as well as 130. The guidance in **Chapter 9, Section 2, "Forged passports or travel documents"** should be followed.

2. AGE LIMITS

Paragraph 128(ii) requires that a person seeking entry in this capacity should not be of an age which puts him outside the limits for employment. Where a person is refused entry on this ground, there is no right of appeal (Section 13 3B(b) of the Immigration Act 1971).

Work Permits (UK) do not in practice apply an upper age limit to work permit employment.

2.1. Employment of children

Children under the age of 13 are prohibited from taking employment by the Children and Young Persons Act. Permits are granted for employment, mainly in the entertainment industry, of children who are 13 years or over, subject to a licence being obtained from the appropriate education authority before any performance takes place, and to compliance with any regulations governing the employment of children as such. When it is known that a child under 13 is coming for employment or where a child of 13 or over arrives for employment without a work permit reference should be made to Passenger Casework Section.

3. ABILITY TO UNDERTAKE THE EMPLOYMENT

The worker should generally have an adequate command of English but this requirement will be waived in certain cases eg entertainers and sportsmen/women.

It may be appropriate to take into account pregnancy or other physical conditions which may interfere with the permit holder's ability to undertake the employment.

4. INTENTION TO LEAVE (SHORT TERM WORK PERMIT HOLDERS)

As a matter of practicality there is little point in pursuing in this respect cases involving highly skilled persons who are likely to qualify for immediate re-entry into the United Kingdom as work permit holders. Provided there is no reason to doubt that such persons will perform the work specified in their permit and will perform no other work, entry should not normally be refused.

The question of a permit holder's intentions at the end of the period of approved employment is more critical in cases where the permit holder has not qualified under the main work permit scheme. Where a permit holder is coming in a capacity which would make him unlikely to qualify to stay on in the United Kingdom as a work permit holder (e.g. as an entertainer or sportsperson), it will be relevant to take into account:

- his immigration history;
- his stated intentions regarding his career and where it is to be based:
 - whether he is already established in his career abroad and/or can expect to have work to return to overseas;
 - whether he retains commitments such as family or property overseas;
 - whether the apparent rewards, monetary or otherwise, of working for a short period in the United Kingdom seem to justify the journey.

5. SUSPICION OF FALSE REPRESENTATIONS OR NON-DISCLOSURE OF MATERIAL FACTS

Where it is decided by a chief immigration officer that there are prima facie grounds for refusal of leave to enter in that it appears that a permit holder may have submitted false references and may have insufficient experience for the job, the immigration officer should telephone Work Permits (UK) . He should ask that the papers relating to the passenger be passed to the HEO and request for that officer to telephone the chief immigration officer concerned. The chief immigration officer should discuss the merits of the case with the HEO and decide whether there is sufficient evidence to establish to the satisfaction of an adjudicator that the permit was obtained by misrepresentation.

Refusal on these grounds is under Paragraph 320(15) of HC 395 and refusal would carry a right of appeal ***before removal.***

6. ACTION WHERE THERE ARE DOUBTS BUT INSUFFICIENT GROUNDS FOR REFUSAL

Exceptionally the immigration officer's examination may give rise to doubts which are not sufficiently strong to justify refusal action. For example unresolved doubts about the permit holder's qualifications for the post or his intention or capacity to take it, or about the genuineness of the employment offered. In such circumstances leave to enter may be given on Code 2 for an appropriate shorter period than that shown in the permit and a report should be submitted.

7. PERSONS COMING FOR EMPLOYMENT WITHOUT A PERMIT

Unless otherwise admissible under the Rules, a person coming to seek or take employment for which a work permit is required should be refused entry if he does not hold a permit. Paragraph 130 should only be quoted, however, as a reason for refusal where the person admits that his intention is to take or seek employment or where there is positive evidence which gives good reason to believe that this is his real intention. Where such

evidence is less compelling and entry is sought as a visitor, the case should be considered only under Paragraphs 40 - 43 of the Rules.

It should be noted that it is for the Home Office to decide who requires a work permit. Cases of doubt should be referred to Passenger Casework Section, not Work Permits (UK).

Chapter 2, ANNEX B provides guidance concerning persons coming for job interviews.

7.1. Action when a passenger arrives without a permit, but a permit has been applied for

When a person arrives for employment without a permit but it can be confirmed that a permit has been issued and the period of the permit can be ascertained, leave to enter should be given for that period.

Where it is known that an application for a work permit has actually been lodged, the officer should contact Work Permits (UK) to ascertain whether or not the application is likely to be successful. Where it is established that the application may take a lengthy time to resolve, the case should be referred to Passenger Casework Section.

7.2. Permits issued but not produced

When a person arrives for employment without a permit but it can be confirmed that a permit has been issued and the period of the permit can be ascertained, leave to enter should be given for that period. When the permit is received, it should be forwarded to the holder, c/o the employer. When the permit cannot be traced a report should be submitted and forwarded to Passenger Casework Section.

8. LETTERS OF APPROVAL IN LIEU OF PERMITS

The issue of individual permits to the members of large orchestras, ballet, opera and stage companies is often dispensed with and instead a letter of approval is issued by Work Permits (UK). A copy of any nominal roll available for the arrival of such a group should be checked and details of the personnel corrected if necessary. The nominal roll should be endorsed with the immigration officer's date stamp and retained by the leader of the group. The members of the group should be given leave to enter on Code 2 for the period specified in the letter.

9. RE-ENTRY OF PASSENGERS PREVIOUSLY GIVEN LEAVE AS PERMIT HOLDERS

9.1. Permit holders returning to same employment

Where a person who was previously admitted with a work permit returns after a temporary absence abroad and the immigration officer is satisfied that he is returning to the same approved employment as before he left the United Kingdom, he should normally be given leave to enter to continue his previous stay.

If the time limit previously imposed on the holder of a long-term permit has expired or will expire in less than two months and the immigration officer is satisfied that he is returning to the same approved employment, he may be given leave to enter for 2 months, and advised to contact IND (Immigration) and Work Permits (UK). If the passenger is able to produce a letter from Work Permits (UK) confirming that continued employment is approved, leave to enter in line with the period approved may be granted.

Persons who were initially admitted with short-term work permits and whose original leave to enter or subsequent extension of stay has expired or will expire within two months should not normally be admitted for more than two months, even if the employer has lodged an application for an extension of the work permit. If, however, they produce evidence that Work Permits (UK) is prepared to approve the continued employment, leave to enter may be given for a further period of up to twelve months.

9.2. Stateless permit holders returning

The time limit imposed on a returning stateless permit holder should be governed by his return facilities except where an extension has been granted by the Home Office beyond the validity of his return visa. In such a case the return facilities may be disregarded when determining the period of leave.

9.3. Change of employment

If the holder of a work permit has changed employment and the change has not been authorised, refusal of leave to enter should be considered but reference should be made to Work Permits (UK) for them to consider whether authority would have been given for the change. If leave to enter is given the time limit should not be more than two months.

Authority for a change of employment should be in the form of a letter of approval from Work Permits (UK). Approval may also be endorsed in the police registration certificate held by foreign nationals.

9.4. Permit holders joining British ships

A person who is in approved employment with a firm in the United Kingdom and who joins a British ship as a paid employee of the firm should be regarded as a supernumerary. On departure an embarkation card should be taken and forwarded to the Home Office. When he returns with the ship to the United Kingdom he should be dealt with as a passenger returning to the same employer.

10. WORK PERMITS ISSUED TO BRITISH OVERSEAS CITIZENS OR BRITISH PROTECTED PERSONS

A British Overseas Citizens or British Protected person who presents a work permit should be given indefinite leave to enter.

11. PERMITS ISSUED BY OTHER AUTHORITIES WITHIN THE COMMON TRAVEL AREA

Holders of permits issued by other authorities within the Common Travel Area should normally be given leave to enter as indicated in paragraphs 11.1 - 11.4 below, as appropriate. See also **Chapter 1, Section 2, ANNEX H**.

11.1. Permits issued by Northern Ireland authorities

Holders of such permits should be given leave to enter on **Code 2 for the period specified on the permit**, but the words Work Permits (UK) should be deleted and "Department of Economic Development, Northern Ireland" substituted.

11.2. Permits issued by Isle of Man authorities

The Isle of Man Department of Trade and Industry issues two types of work permit:

- Those issued under the Immigration Act 1971, as extended to the Isle of Man, are similar in appearance to the work permits issued by Work Permits (UK). Holders of these work permits should be dealt with in accordance with **Chapter 1, Section 2, Annex H**.
- Permits under the Isle of Man Control of Employment Act 1975 are issued to persons who are not members of the Isle of Man labour force but who are permitted to work in the Isle of Man. Persons holding such documents are likely to be British citizens or persons with indefinite leave in the United Kingdom. These permits are not relevant to the Immigration Act and are not "work permits" as defined in Section 33(1) of the Immigration Act 1971. A person seeking leave to enter or remain, presenting one of these permits, does not qualify under Paragraph 128 of the Rules.

11.3. Permits issued by the Channel Islands authorities

Permits are granted by the States of Jersey Home Affairs Committee or the States of Guernsey Board of Administration.

Holders of Jersey or Guernsey permits should be dealt with in accordance with Chapter 1, Section 2, Annex H, Paragraph 3.

11.4. Permits issued by the Irish Republic authorities

A person coming for employment in the Irish Republic should produce a permit issued by the Minister of Labour, Dublin, or some other official document indicating that a permit has been, or will be granted. If such a

document is held, the passenger should be given leave to enter for **one month on Code 3**. If no such document is held, he should be refused leave to enter. Copy landing cards should be sent to the Department of Justice in Dublin in the normal way.

12. MISCELLANEOUS CATEGORIES: OCCASIONS WHEN A WORK PERMIT IS REQUIRED

Work Permits are required for the following categories of employment in the circumstances as described below:

12.1. Postgraduate students *working* as researchers

Even if studying towards a PhD degree, postgraduate researchers require a permit if they are employed by the institute at which they are doing their research (see **Chapter 3, Section 1, ANNEX B** if further guidance is required in respect of Research students).

12.2. Doctors and dentists who are in employment

Doctors or dentists who seek employment other than post-graduate training or self-employment require permits. Such persons would include doctors coming to:

- work with a pharmaceutical company;
- take up an academic post in a medical school; or
- take up a hospital appointment at staff grade or consultant level.

In addition, doctors **who are already fully qualified** require permits if coming to undertake postgraduate research unless the post they will occupy is an acceptable training post (see **Chapter 3, Section 3** if further guidance is required in respect of doctors undergoing postgraduate training, or **Chapter 6, Section 1** in respect of self employed persons).

12.3. Entertainers

All professional and amateur entertainers who do not qualify to be treated as visitors or admitted outside the Rules as permit-free (see **Chapter 2, ANNEX B** or **Chapter 17, Section 3**, as appropriate) require work permits. This would include those coming for longer than 6 months or **to base themselves** with theatre groups or orchestras.

"Season ticket" work permits are issued to artists coming for a season of engagements. The endorsement "Season ticket" is placed in the space for salary or remuneration. Admission should be for the period requested on Code 2, subject to the validity of the permit.

See **Chapter 17, "Entertainers"** if further advice is required.

12.4. Sportspersons

All professional and amateur sportspersons who do not qualify to be treated as visitors or admitted outside the Rules as permit-free (see **Chapter 2, ANNEX B** or **Chapter 17, Section 9**, as appropriate) require work permits. This would include those coming for longer than 6 months or **to base themselves** here for a sporting season or to sign up with a team.