

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](#).

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1. INTRODUCTION

Overseas nationals who are not settled here and who intend to take employment in the United Kingdom are required to have work permits unless they are:

- EEA Nationals and their families;
- Gibraltarians;
- Commonwealth Citizens given leave to enter or remain on the basis of United Kingdom ancestry;
- Seamen under contract to join a ship due to leave British waters (see **Chapter 16** to these instructions);
- Persons employed as civilian components of NATO Forces (see **Chapter 15 Section 3**)
- Persons admitted as the dependants of persons settled here and other dependants (under limited circumstances); or
- Students (under limited circumstances).

In addition to the above:

- Parts 4 and 5 of HC 395 contain provisions for people coming to the United Kingdom for certain types of employment to be admitted without a work permit (and also guidance relating to permits issued under the Training and Work Experience Scheme);
- **Chapter 17** provides guidance relating to types of employment for which the work permit requirement is waived, exceptionally, outside the Rules; and
- **Chapter 6** provides guidance relating to persons coming to the United Kingdom for **self-employment**.

2. LEAVE TO ENTER FOR WORK PERMIT EMPLOYMENT

The requirements to be met by a person seeking leave to enter for work permit employment are set out in Paragraph 128 in Part 5 of HC 395. **All** these requirements **must be met** and **must** be referred to when reading the following advice.

Note: A visa national must be in possession of a United Kingdom visa for this purpose as well as a work permit.

2.1. Key points

The main points on which the immigration officer needs to be satisfied are:

- that there are no errors in the details recorded on the work permit which might invalidate it, or other information to suggest that the permit is not valid;
- that the passenger intends to undertake only the employment specified in the permit.

2.2. Further guidance

ANNEX A (below) provides on-entry guidance relating to work permit employment

ANNEX B provides background information on the "single point of contact" and decision-making process of Work Permits (UK)

2.3. Granting leave to enter

Code 2, normally for the period specified in the permit.

Non-Commonwealth citizens admitted for a period longer than 3 months are required to register with the police.

The permit must not be endorsed by the immigration officer and should be retained by the passenger.

2.4. INDECS

WPL Work Permit holder - 12 months or more

WPS Work Permit holder - less than 12 months

2.5. Refusal of leave to enter

Where no entry clearance is held and the requirements of Paragraph 128 are not met, the passenger should be refused leave to enter under Paragraph 130.

In a case where false representations were made or material facts not disclosed for the purpose of obtaining the permit, the passenger may be refused entry under Paragraph 320(15). See **Chapter 9, Section 2**.

A visa national seeking entry without a valid United Kingdom visa falls to be refused under Paragraph 320(5). See **Chapter 9, Section 2**.

Where a passenger seeking entry in this capacity holds an entry clearance for this purpose, refusal may only be considered under Paragraph 321. See **Chapter 9, Section 3**.

In the case of a person returning to the United Kingdom from a temporary absence abroad, within a period for which he was previously given leave, reference **must** be made, before refusal, to **Chapter 1, Section 9, "Persons returning to resume previous leave"**.

ANNEX G (below) provides examples of refusal formulae.

2.6. On entry refusal codes

B1 For employment without a work permit

B5 Work permit holder refused, including work permit obtained by deception or holder of forged, falsified or stolen permit

E4 Lack of required non-settlement entry clearance, including those set aside on grounds of misrepresentation, forgery, failure to disclose material facts or where a change of circumstances has removed the basis of claim to admission.

Z1 Other reasons.

2.7. Right of appeal and corresponding refusal form

- A passenger without entry clearance refused entry for employment which requires a work permit has no right of appeal if **he holds no work permit**.
- a person refused entry in this capacity who holds an **expired** permit has no right of appeal.
- A visa national refused entry **for lack of visa, even if he holds a work permit**, has no right of appeal.

[Section 13(3B)(a) of the Immigration Act 1971 (as set out in Section 11 of the Asylum and Immigration Appeals Act 1993)].

In the above cases, therefore, refusal form IS 82D should be used.

- A non-visa national who holds a **current** work permit but is refused entry on other grounds has a right of appeal **before removal**.
- Form IS 82 should therefore be used.
- a person refused leave to enter to resume unexpired leave which was previously granted for work permit employment has a right of appeal **after removal** (a **used** permit does not convey a right of appeal before removal).

Form IS 82C should therefore be used.

Further advice on rights of appeal, including in cases where a forged work permit is presented, see **Chapter 12, Section 1"**.

The **"Port Instructions for on-entry asylum applications"** provides details of the appropriate forms to use in mixed asylum/non-asylum cases.

3. LEAVE TO REMAIN FOR WORK PERMIT EMPLOYMENT

The requirements to be met by a person seeking to remain in the United Kingdom in this category are set out in Paragraph 131 of HC 395 and **must** be referred to when reading the following advice.

Note: The EC/Turkey Association Agreement, 1963, confers certain rights on Turkish Nationals who are already working in the United Kingdom. See section 10 to this chapter "EC/Turkey Association Agreement".

3.1. Key points

Caseworkers must satisfy themselves that:

- Work Permits (UK) have approved the employment;
- the applicant was admitted to the United Kingdom for work permit employment;
- that the applicant intends only to undertake the employment specified in the letter of approval and is capable of undertaking that employment; and
- that there is nothing to suggest that the applicant is not able to maintain and accommodate himself and his dependants without recourse to public funds.

3.2. Further guidance

ANNEX A (below) provides on-entry guidance relating to work permit employment, including "Miscellaneous categories: Occasions when a work permit is required".

ANNEX B provides background information on the "single point of contact" and the decision-making processes of Work Permits (UK)

ANNEX C provides guidance for caseworkers on the rules for switching into work permit employment

3.3. Granting leave to remain

Leave to remain should normally be granted for the period specified in the letter of approval or to complete 5 years, whichever is the shorter period.

Non-Commonwealth citizens admitted for a period longer than 3 months are required to register with the police.

3.4. INDECS

W1 Extension - continuing employment (excluding doctors & dentists)

W2 Extension - continuing employment (doctors & dentists)

W3 Extension - switching case (excluding doctors & dentists)

W4 Extension - switching case (doctors & dentists)

3.5. Refusal of leave to remain

Chapter 9, Section 1 "Adverse decisions - General Guidance" provides important advice about the decision making process and should be consulted whenever an application falls to be refused.

Refusal of extension of stay in this category is under Paragraph 133 of HC 395 on the grounds that each of the provisions of Paragraph 131 is not satisfied.

Note: there is no entitlement to appeal against refusal of leave to remain where refusal is on the grounds of Work Permits (UK)'s refusal to approve continuing employment.

ANNEX G (below) provides examples of refusal formulae.

3.6. INDECS

W5 Refusal - employment not approved by Work Permits (UK)

W6 Refusal - no longer wanted by employer

W7 Refusal - no switching

W8 Refusal - other reasons

4. SETTLEMENT

Under Paragraph 134 of HC 395 settlement may be granted to those who have completed 5 years here in this category, **if it is specifically applied for**. However, if a work permit holder, who has been in the United Kingdom for 5 years, applies for leave for a **limited** period, the application should **not** be treated as one for settlement.

4.1. Key points

In considering applications for indefinite leave in this capacity, caseworkers must be satisfied that the applicant:

- has spent a **continuous** period of 5 years here in this capacity;
- is still engaged in the same employment; and
- has met the requirements of Paragraph 131 throughout the 5 year period; and
- has sufficient knowledge of English language and sufficient knowledge of life in the United Kingdom.

4.2. Further guidance

ANNEX F (below) provides guidance relating to:

- calculating the five year period for settlement; and
- applicants who qualify but do not apply for settlement

4.3. Granting settlement

If all the above requirements have been met, settlement may be granted.

4.4. INDECS

1AA Settlement granted (to applicant), original admission was with a work permit.

1BA Settlement granted (to applicant), original admission in any other category.

4.5. Refusal of settlement

Chapter 9, Section 1 "Adverse decisions - General Guidance" provides important advice about the decision-making process and should be consulted whenever an application falls to be refused.

Where each of the requirements of Paragraph 134 is not met, the application for settlement should normally be refused.

ANNEX F provides guidance for action where the requirements for settlement are not met.

ANNEX G provides examples of refusal formulae.

4.6. INDECS

X7 Settlement refusal - premature or inappropriate application

- applicant still has concurrent leave

X8 Settlement refusal - no extension of leave granted