Northern Ireland Fire & Rescue Service

Employment of Migrant Workers Policy & Procedure

1 Introduction
2 Principles
3 Background
4 Preventing Illegal Working - Right to work document check
5 Sponsorship Licence Scheme
6 Nationals with restrictions to work in the UK
7 Monitoring and reviewing the Policy and Procedure

Appendix 1 – List of Countries in the EEA and EU
Appendix 2 – List A: Documents showing an ongoing right to work
Appendix 3 – List B: Documents showing an ongoing right to work (up to 12 months)
Appendix 4 – List of documents that do not provide a ‘statutory excuse’

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1 **Introduction**

Northern Ireland Fire and Rescue Service (NIFRS) have developed this policy and procedure to support the fair employment of migrant workers and prevention of illegal working in line with the UK government legislation namely, the Immigration, Asylum and Nationality Act 2006. This policy and procedure is associated with and derives from NIFRS Code of Procedures on Recruitment and Selection.

2 **Principles**

This Policy and procedure has been developed to:

Ensure the fair recruitment of employees outside the European Economic Area (EEA)/European Union (EU) and also support those within the EEA/EU who have certain restrictions placed on them by the UK legislation.

Ensure right to work document checks are completed at the time of selection in compliance with the Immigration, Asylum and Nationality Act 2006 and in line with best practice.

Ensure employees are recruited on the basis of merit and without unlawful discrimination.

3 **Background**

There are different categories of migrant workers depending on their country of origin and are as follows:

- Nationals of the EEA/EU or Switzerland who are fully free to work in the UK (except for Romanian, Bulgarian and Croatian nationals who have restrictions placed on them). Please refer to appendix 1 which shows the countries in the EEA/EU who can work in the UK without restriction.

- Nationals from either Bulgaria or Romania (referred to as EU2/ A2 workers) or Croatian nationals who have to obtain authorisation to work, unless they are exempt from doing so.

- Nationals from outside the EEA/EU who may require applications under the Home Office point-based system (PBS) which was introduced to regulate immigration to the UK from outside the EEA/EU. Sponsorship is a main element of the PBS whereby employers seeking to bring migrants to the UK take responsibility for them and ensure they have the intention and ability to meet the conditions of their Visa.
To ensure the fair recruitment of nationals from these categories, NIFRS will ensure the correct procedures are followed for the recruitment of migrant workers dependent on their country of origin using the guidance provided by the UK Border Agency\(^1\). Therefore, NIFRS will make sure right to work document checks are completed at the initial recruitment stage.

4 Preventing Illegal Working- Right to Work Document Checks

Establishing a ‘statutory excuse’:

NIFRS will ensure right to work document checks are completed before an individual commences employment to establish a ‘statutory excuse’ and avoid the civil penalty in line with the guidance from the UK Border Agency using SC209. In order for NIFRS to do this a Standard Operating Procedure (SOP) for documentation checking will be used.

It is the responsibility of the prospective employee to demonstrate they are entitled to work in the UK. If the individual is unable to produce the relevant documents or the documents are not satisfactory the offer of employment may be withdrawn.

As advised by the UK Border Agency, copies of every document will be kept for the duration of the individual’s employment and for a further two years after they have stopped working.

NIFRS will only accept the documents specified in List A and B (Appendices 2 and 3) to establish a ‘statutory excuse’. If the individual produces documents from List B, it is the responsibility of Human Resources to conduct checks at least every 12 months in order to retain the ‘statutory excuse’.

Appendix 4 contains documents that do not provide a ‘statutory excuse’ and will not be accepted.

5 Sponsorship Licence Scheme

If NIFRS decide to recruit nationals from outside the EEA/EU, guidance will be followed on Sponsorship from the UK Border Agency, to ensure the correct procedures and duties are complied with under the Sponsorship Licence Scheme to make sure immigration control remains effective.

6 Nationals with restrictions to work in the UK

Bulgarian, Romanian and Croatian Nationals

Bulgarian, Romanian and Croatian nationals are free to come to the UK, however, there are certain restrictions placed on these citizens wanting to work in the UK.

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\(^1\)Home Office: UK Border Agency Full Guide for Employers on Preventing Illegal Working in the UK
If Bulgarian, Romanian and Croatian nationals want to work in the UK they will need to obtain authorisation to work \textit{before} commencing employment, unless they are exempt from doing so. NIFRS will make sure the correct process is followed for the recruitment of these nationals and ensure all the appropriate documentation is checked before the worker commences employment.

7 \textbf{Monitoring and reviewing the Policy and Procedure}

The Human Resources Department will monitor the use of this Procedure and will review this Policy and Procedure triennially and in light of best practice and changes in legislation. Any review of the Policy will involve consultation with the appropriate stakeholders.

NIFRS will encourage consultation, from within the Organisation and with outside agencies, in accordance with consultation arrangements outlined in Section 75 of the Northern Ireland Act, 1998, statutory equality duty in reviewing the implementation and effectiveness of this policy.
APPENDIX 1

COUNTRIES IN THE EEA WHO CAN WORK IN THE UK WITHOUT RESTRICTION

- Austria
- Belgium
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Liechtenstein
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Norway
- Poland
- Portugal
- Slovakia
- Slovenia
- Spain
- Sweden

NB: The EEA countries consist of the EU countries listed below, plus Iceland, Liechtenstein and Norway. Although these three countries are not members of the EU, their citizens have the same rights as EU Citizens to enter, live and work in the UK.

COUNTRIES IN THE EU WHO CAN WORK IN THE UK WITHOUT RESTRICTION

- Austria
- Belgium
- Cyprus
- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Iceland
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Slovakia
- Slovenia
- Spain
- Sweden

NB: Bulgarian and Romanian (EU2/A2) nationals joined the EU on 1 January 2007 and also became part of the EEA. Citizens from these countries are free to come to the UK but unless exempt, they will be subject to worker authorisation.

Croatian nationals joined the EU on 1 July 2013 and also became part of the EEA. Citizens from Croatia are free to enter or remain in the UK but unless exempt, they will be subject to worker authorisation.

It is important to note that Switzerland is not a member of the EEA or EU, but since June 2002, Swiss nationals and their families benefit from similar rights to EEA nationals on freedom of movement and work.
**List A: Documents showing an ongoing right to work**

**SINGLE DOCUMENTS**

- A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK
- A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area (EEA) country or Switzerland
- A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to a national of a EEA country or Switzerland
- A permanent residence card issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the family member of a national of a EEA country or Switzerland
- A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK
- A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK

If you are unable to produce any of the single documents listed above, please provide a combination from the list below.

**COMBINED DOCUMENTS:**

**Always required:**

An official document issued by a previous employer or government agency with the person’s name and National Insurance number (a P45, P46, National Insurance Card, or letter from a Government agency).

**And:**

An Immigration Status Document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK.

A full birth certificate issued in the UK which includes the name(s) of at least one of the holder’s parents.

A full adoption certificate issued in the UK which includes the name(s) of at least one of the holder’s adoptive parents.

A birth certificate issued in the Channel Islands, the Isle of Man or Ireland.

An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland.

A certificate of registration or naturalisation as a British citizen.

A letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the UK.
**APPENDIX 3**

**List B: Documents showing an ongoing right to work (up to 12 months)**

### SINGLE DOCUMENTS

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>A passport or another travel document endorsed to show the holder is allowed to stay in the UK and is allowed to do the work in question, provided it does not require an issue of a work permit</td>
<td></td>
</tr>
<tr>
<td>A Biometric Residence Permit issued by the UK Border Agency to the holder that indicates that the person named in it can stay in the UK and is allowed to do the work in question</td>
<td></td>
</tr>
<tr>
<td>A residence card or document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a family member of a national of an EEA country or Switzerland</td>
<td></td>
</tr>
</tbody>
</table>

If you are unable to produce any of the single documents listed above, please provide a combination from the list below.

### COMBINATION DOCUMENTS

**Combination 1:**

A work permit or other approval to take employment issued by the Home Office, the Border and Immigration Agency or the UK Border Agency *when produced in combination with* either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer confirming the same.

**Combination 2:**

A certificate of Application issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to or for a family member of a national of a EEA country or Switzerland stating that the holder is permitted to take employment which is less than 6 month old *when produced in combination* with a positive confirmation letter from our Employer Checking Service.

**Combination 3:**

An application Registration Card issued by the Home Office, the Border and Immigration Agency or the UK Border Agency stating that the holder is permitted to take employment, *when produced in combination with* a positive confirmation letter from the Employer Checking Service.

**Combination 4:**

An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question, *when produced in combination with* an official document giving the person’s National Insurance Number and their name issued by a Government agency or previous employer.

**Combination 5**

A letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question when produced in combination with an official document giving the person’s National Insurance Number and their name issued by a Government agency or a previous employer.

If documents are provided from list B checks must be conducted every 12 months to retain the statutory excuse.
APPENDIX 4

List of documents that do not provide a ‘statutory excuse’

1. A Home Office Standard Acknowledgement Letter or Immigration letter (IS96W) which states an asylum seeker can work in the UK

2. A National Insurance number on its own in any format

3. A driving licence issued by the Driver and Vehicle Licensing Agency

4. A bill issued by a financial institution or utility company

5. A passport describing the holder as a British Dependent Territories Citizen which states that the holder has a connection with Gibraltar

6. A short (abbreviated) birth certificate issued in the UK which does not have details of one of the holder’s parents

7. A licence provided by the Security Industry Authority

8. A document check by the Criminal Advice Bureau

9. A card or certificate issued by the Inland Revenue under the Construction Industry Scheme