



Home Office

UK Border Agency

WORK PERMITS

TRAINING AND WORK EXPERIENCE SCHEME

Guidance for Employers

From 1 April 2008

This guidance note provides information on the criteria of the Training and Work Experience Scheme (TWES) permit arrangements and advice on how to make an application. They are updated regularly, therefore, please read them before filling in the form. This supersedes all previously issued guidance. For the purpose of these guidance notes, the terms 'we', 'us' and 'our' refer to the UK Border Agency.

Please note: The arrangements in this Guidance Note will be superseded by the Points Based System (PBS) during the course of 2008/2009. Please check our website www.ukba.homeoffice.gov.uk for updates and further information.

Contents	Paragraphs
Section 1 – The Criteria	
Overview.	1
Summary of the Criteria	3
The Employer	8
General TWES criteria	16
TWES Training criteria	22
TWES Work Experience criteria	32
Medical Training Initiative	41
Work for which we do not issue permits	59
Section 2 – Making an application	
How and when do I apply?	66
How much does a work permit cost?	72
Where can I get a TWES permit application form?	73
What if I want to use a Representative?	74
Who signs the Declaration?	84
How do I get advice on making applications for TWES permits?	89
Where do I send the TWES permit application form?	94
Where will the UK Border Agency send the permit and any other letters?	96
Section 3 – Extension, change of employment, technical changes of employment and supplementary employment	
Extension applications.	97
Change of employment applications.	110
Technical changes of employment.	118
Supplementary employment.	125
Section 4 – Verifying applications and Abuse	
Verifying applications.	126
Allegations of abuse of the work permit arrangements.	150
Section 5 – Immigration	
Immigration Clearance	154
What if the person has dependants?	165
If the person is in this country how does this affect the application?	170
The Immigration Rules on switching	175
How do I get further information on in-country immigration decisions and passports?	178
Section 6 – Frequently Asked Questions	
What if the person does not take up the post or the employment ends prematurely?	179
In what circumstances can I request a reprint of a work permit?	183
What if I do not agree with the decision on my application?	194

Section 1 – The Criteria

Overview

1. The purpose of Training and Work Experience Scheme (TWES) is to enable individuals to gain skills and experience through work-based learning, which builds on their previous education and training and which they intend to use on their return overseas. We issue TWES permits where a genuine need exists for a person to do:

- (a) work-based training for a professional or specialist qualification; or
- (b) a period of work experience.

2. If the person is to fill a position that would otherwise be filled by a 'resident worker' (see paragraph 6 for a definition) you should apply for a Business and Commercial work permit on form WP1.

Summary of the criteria

3. Decisions on TWES permit applications are made against the following general criteria plus additional criteria specific to the training for a professional or specialist qualification or work experience category, whether:

- (a) **there is a UK-based employer;**
you can make a work permit application if you are a UK based employer and you wish to offer a period of training or work experience in the UK to a person. You should make a work permit application to employ a named person to undertake specific period of training or work experience for you, normally on a full-time basis. The employee cannot use the work permit to take a different job or to work for a different employer.
- (b) **the individual is to be an employee of the UK-based employer;**
 - if you wish to employ a person, you will need to do so on a Class 1 National Insurance basis.
 - whilst in the UK we expect the person to be your employee. There should be a contract of employment between you and the employee. The contract of employment may be requested by the UK Border Agency
 - if the person is being transferred from an overseas parent or subsidiary branch of your company or is being seconded to you from an overseas company, it may be

appropriate for the overseas contract of employment to continue but it should nevertheless be clear that there is an employer/employee relationship between the UK-based company and the person.

(c) **the employer is responsible for the post;**

- we will only issue a work permit where it is clear that you have a clear responsibility for determining the duties and functions of the post. The UK Border Agency will not issue a work permit where the employer is only supplying personnel.
- you will need to demonstrate that you are responsible for the delivery of a particular job, project or piece of work with which the vacancy is associated.

(d) the gross pay and conditions of employment are equal to or exceed those normally given to a resident worker doing similar Training or Work Experience;

(e) the employment complies with UK legislation and any requirements for registration or licensing necessary for the employment for which the permit is being sought;

(f) the post is additional to your normal staffing requirements;

(g) the person has had a TWES permit previously;

(h) the person is going to be doing work experience or training for a minimum of 30 hours per week;

(i) the entry level to qualify for the training or work experience is at National/Scottish Vocational Qualification (N/SVQ) level 3 or equivalent (see paragraphs 22 and 32); and

(j) the person has the suitable skills, qualifications and/or experience (see paragraphs 23 and 33).

4. You can make a TWES permit application if you are an employer based in this country and you are providing training or work experience in the UK. You should make a TWES application for a named person to do specific training or work experience with you, the employer, on a full-time basis. The person cannot use the permit for different work experience/training or to work for a different employer.

5. These restrictions do not, however, prevent an employer using an agency to assist in recruiting a person, providing the permit is to be issued to the employer and not the agency.

6. For the purposes of these guidance notes a 'resident worker' is a person who is a European Economic Area (EEA) national ((member countries are: Austria, Belgium, *Czech Republic, Cyprus, Denmark, *Estonia, Finland, France, Germany, Greece, *Hungary, Iceland, Republic of Ireland, Italy, *Latvia, Liechtenstein, *Lithuania, Luxembourg, Malta, the Netherlands, Norway, *Poland, Portugal, * Slovakia, *Slovenia, Spain, Sweden, UK) or has settled status in the UK within the meaning of the Immigration Act 1971, as amended by the Immigration and Asylum Act 1999, and the Nationality, Immigration and Asylum Act 2002.

* Nationals of these countries other than Malta and Cyprus, who joined the EU on 1 May 2004 and who wish to take employment in the UK do not require a work permit but are required to register under the Worker Registration Scheme. They should apply for registration within one month of starting work for an employer in the UK.

7. For the purpose of these guidance notes Bulgarian and Romanian nationals are classified as resident workers where they are not subject to accession state worker authorisation. Details of the accession state worker authorisation scheme can be found in the guidance for Bulgarian and Romanian nationals available on our website at www.ukba.homeoffice.gov.uk

The Employer

Establishing your company

8. If you have not applied for a work permit in the past five years you should send as much recent information as possible to establish that you are a UK-based employer, and that you are capable of offering a genuine vacancy. In all cases, other than for exempted employers¹, you must send:

(a) evidence of registration with HM Revenue & Customs to pay PAYE and National Insurance. New employers need to send a copy of their NESI 8. Established employers need to provide either their P35 or a copy of their HM Revenue and Customs internet account book,

¹ Government Departments, Government Agencies, official public bodies, such as the BBC or ITC, Local Authorities, Grant Maintained Schools, Nationalised Industries, Health Authorities, NHS Trusts, State funded universities, colleges and research centres, but not private ones (unless nationally recognised), and, long established, well-known companies and organisations, such as British Petroleum or Oxfam.

(b) a copy of your current Certificate of Employers Liability Insurance (this requirement does not apply to employers based in Northern Ireland).

(c) Care homes or similar establishments must also send:

I. a current hierarchy or organisation chart and staff list showing the position of the job on offer, all job titles, and which posts are filled by work permit holders,

II. a copy of the Commission for Social Care Inspection certificate or a copy of the Local Health Authority registration, if the CSCI certificate is not available, and

III. confirmation of the number of beds.

(d) Hotel and catering establishments must also send:

I. a current hierarchy or organisation chart showing the position on offer, all job titles, and which posts are filled by work permit holders,

II. evidence of registration by your Local Authority to serve food and,

III. copies of menus, wine lists.

(e) Educational establishments that are not on the Department for Innovation, Universities and Skills Register of Providers must also send a current prospectus and student register.

(f) Employers in IT companies must also send:

I. a current hierarchy or organisation chart showing the position on offer, all job titles, and which posts are filled by work permit holders, and

II. a copy of current relevant service contract(s) that shows the scope of the service, signed by all parties.

9. We may also need to see other documents including, where appropriate, those required by regulatory authorities or by UK legislation. You should send as many of these as possible. These include:

- VAT returns,
- most recent company accounts, audited if possible.
- a copy of the landlord's signed lease of premises, or rental or purchase agreement
- company incorporation, fire, or food hygiene certificates or other registration or licensing documents,
- utility bills,
- business plans,
- balance sheets,
- contracts detailing your business,

- for IT and hotel and catering establishments, floor plans.
- Evidence that you have been actively operating or trading for at least 3 years.

This is not an exhaustive list and we may need to ask for further information that will support your application.

10. The UK Border Agency reserves the right to contact other authorities in order to verify the evidence received or to obtain any other information we consider necessary in order to consider your application. Where unsatisfactory evidence is provided the application may be refused. Where insufficient evidence is provided the application may be limited or refused. We also reserve the right to limit the period of the work permit to 18 months for all employers who have been actively operating or trading for less than 3 years.

11. Any photographs/documents received with the original application and returned to you may need to be re-submitted in the event of a further application.

Conditions of employment

12. The gross pay and other conditions provided to the person should be at least equal to those normally given to a 'resident worker' undertaking similar training or work experience.

13. All employees of UK based companies, regardless of whether they are paid overseas or in the UK, must be paid the National Minimum Wage (NMW).

- a) When considering if NMW is met, all the accommodation allowance can be added to salary providing it is totally disposable, non-deductible and guaranteed to the overseas national (i.e. they are free to do with it as they wish).
- b) Where the accommodation allowance is deductible or is not disposable or not guaranteed to the overseas national (e.g. a hotel is provided for them or a house is provided with rent paid) then only a maximum sum determined by the Department for Business, Enterprise and Regulatory Reform (DBERR) can be added to the salary when considering if NMW is met. For further information on NMW you can telephone the DBERR on 0845 6000 678 or visit the DBERR website: <http://www.dti.gov.uk/employment/pay/national-minimum-wage/index.html>.

14. Provided NMW is met, all allowances will be considered in assessing the overall salary package

against the going rate. Allowances must be guaranteed to the individual and where appropriate, similar to those normally paid to resident workers doing similar work.

15. In addition:

- a) The employment must meet the Working Time Regulations (WTR). For further information on WTR you can telephone the Advisory, Conciliation and Arbitration Service (ACAS) on 0845 747 4747 or visit the DBERR website at: <http://www.dti.gov.uk/employment/employment-legislation/working-time-regs/index.html>.
- b) You, the UK-based employer, will be expected to operate PAYE and class 1 National Insurance (NI) Contributions. See paragraph 65 of the General Information leaflet for where to get more information on NI contributions or tax.
- c) Payments made via an overseas service company or a third party whose main involvement with the worker is to hire the worker's services to others will not normally be appropriate because we expect there to be a direct contract of employment between the person and their employer, a company based in this country.
- d) In cases where the worker is to be employed under the terms and conditions of their overseas branch, it is your responsibility as the employee's UK based employer to ensure that you have checked with HM Revenue & Customs that arrangements for the deduction of the worker's Income Tax and National Insurance are in place.
- e) The employment must also comply with any requirements for registration or licensing necessary for the employment.
- f) Deductions from the gross salary should be equivalent to those applied to resident workers.

General TWES Criteria

16. The person must be additional to your normal staffing requirements. They must not be filling a position that would otherwise be filled by a 'resident worker'. If the person is filling a vacancy you should apply for a Business and Commercial work permit on form WP1. This also applies to applications to employ trainee workers who will be filling a vacancy whilst undergoing on the job training, for example trainee accountants, solicitors and pharmacists.

17. We approve TWES permits on the understanding that the person intends to leave the UK at the end of the agreed period to use their new

skills and experience. It is important to note that an individual who holds a TWES permit will not be allowed to transfer to work permit employment. For further information on the switching rules please refer to our website www.ukba.homeoffice.gov.uk.

18. We can consider applications for one transfer between the TWES categories provided this is made no more than three months after the start of the first TWES permit.

19. Normally the person should already have an academic or vocational qualification at least at N/SVQ level 3 or equivalent in order to benefit from the level of training expected on TWES.

20. We expect the person to have an adequate command of the English language to enable them to benefit from the training or work experience.

21. The training or work experience offered should be for a minimum of 30 hours per week. This excludes any time for associated study.

TWES Training Criteria

22. The training should lead to a recognised professional or specialist qualification that requires an entry level qualification of at least N/SVQ level 3 or equivalent.

23. The person should have appropriate qualifications where this is necessary to do the training of at least N/SVQ level 3 or equivalent.

24. Your company and the person who will be managing the training should be competent to provide the training. This will normally involve being registered or approved by the relevant professional body. You should send copies of the registration with the application. If you are using the e-mail application form, you can scan in this information as an attachment. However, the UK Border Agency reserves the right to request originals if we deem it necessary.

25. The training should be completed in the shortest possible time. If you, or the person, end the training before a qualification is gained, you must inform us in writing (see paragraph 179 to 182).

26. We will normally issue the permit for the average time expected to complete the training up to a period of five years (we may limit the length of approval for new employers who have not been able to provide us with enough of the information detailed in paragraph 8). If a permit is required for over five years, you will need to apply for an extension and we will expect the individual to have taken any exams at the earliest possible sitting.

27. The individual will be allowed two attempts (or possible attempts) for each exam. Three attempts may be allowed in exceptional circumstances. We count each exam not taken at the expected time as a possible attempt.

28. People who wish to train for a qualification available through full-time study should either apply to enter the UK as a student or if they are already here, seek permission from the UK Border Agency to stay as a student. See paragraphs 41 - 46 of the General Information leaflet for details.

29. We issue TWES permits for a person to achieve a single qualification only.

30. The gross pay and other conditions should be comparable to those given to a 'resident worker' doing this level of training and should reflect the person's experience.

31. You should send:

- (a) evidence of the person's qualification;
- (b) evidence of any exemptions from exams;
- (c) a copy of the training plan/programme agreed with the appropriate professional body (where appropriate);
- (d) evidence from the appropriate professional body, where you have not previously supplied this, to show that the trainer or practice is approved to provide the training.

If you are using the e-mail application form, you can scan in this information as an attachment. However, the UK Border Agency reserves the right to request originals if they deem it necessary.

TWES Work Experience Criteria

32. The work experience should be at least at N/SVQ level 3 or equivalent.

33. The person should either:

- (a) already have a relevant academic/vocational qualification of at least N/SVQ level 3 or equivalent; or
- (b) have 12 months previous relevant experience at N/SVQ level 3 to enable them to benefit from a work experience programme; or
- (c) be a student studying at a college overseas for a qualification relevant to the proposed work experience who has reached a level of study at or above N/SVQ level 3.

Please send us copies of the person's academic or vocational qualifications. If these are not in English,

please send certified translations. Do not send originals. If you are using the e-mail application form, you can scan in this information as an attachment. However, the UK Border Agency reserves the right to request originals if they deem it necessary.

34. Please send references from past employers on their headed notepaper that verify the person's relevant work experience. References that only describe the person to be of good character are not appropriate. They must give the start and finish dates and details of any work experience undertaken. If they are not in English please send a certified translation.

35. If you send copies of references the UK Border Agency reserves the right to request originals and if necessary check their authenticity and content.

36. If you are using the e-mail application form, you can scan in this information as an attachment.

37. If you are providing work experience in this country to a student studying at a college overseas, (see paragraph 33(c)) where the entry level of the course being studied does not require N/SVQ level 3 qualifications, the university or college should provide written evidence demonstrating that the student has reached a level of study at or above N/SVQ level 3.

38. The work experience programme should describe the type and level of experience to be gained and how this will be supervised. The programme should be specific to the work experience provider/employer and appropriate to the skills/experience of the individual.

(a) The employer should be able to deliver all aspects of the programme. It should set out a detailed timetable for each stage of the programme and a description of the tasks to be done and who will be supervising the work experience.

(b) In general, we expect most work experience programmes not to exceed 12 months. If the work experience is likely to take longer than 12 months to complete you should explain this in your initial application.

(c) We approve an extension to a work experience permit only where there are exceptional circumstances and a longer period, up to an overall maximum of 24 months, can be justified.

39. We advise that you take into account the time required to obtain a work permit and entry clearance before submitting a work permit application that specifies an end date (e.g. for contracts).

40. The gross pay and conditions should be in line with that of a 'resident worker' doing this kind of work experience.

Medical Training Initiative

41. This category is appropriate for overseas post-graduate medical specialists undertaking further/continuing training in the UK, normally within the NHS. It covers all schemes and arrangements sponsored or administered by the Medical Royal Colleges and similar organisations (for example, Commonwealth Scholarship Commission) for the training of overseas medical professionals, doctors or dentists. The individual is expected to return overseas to put into practice the training they have received in the UK.

42. MTI work permit applications can be made on behalf of those individuals who are administered or who are sponsored for the purpose of registration with the General Medical Council, and whose post is approved by the Deaneries, or other recognised medical authorities, to undertake a period of training or work experience, under the following categories:

- fixed term appointments (type II, Speciality Registrars)
- scholarships,
- locum appointments – training (LATs)
- medical professionals from overseas governments,
- head-for-head exchanges.

43. The employer of the overseas worker can be the sponsoring Royal College or appropriate regional Deanery, or an individual NHS Trust. Whichever arrangement is agreed upon the employer will need to provide evidence that includes:

- the training programme (including the trainer accreditation and contact details, timetable, key stages, course or module titles, location(s) and key outputs such as certificates of completion of training)
- evidence of GMC registration (PIN, or a certificate where this is available)
- the formal notification of sponsorship or endorsement.
- a completed Deanery form that states that the total salary/funding to be paid is appropriate for the training or work experience undertaken.

44. The salary and funding package may comprise:

- direct salary payments from the employer, whether in the UK or overseas,
- allowances from the UK or overseas guaranteed to the overseas worker (including those for accommodation). Where the basic salary to be paid will be below the NMW, special provisions apply for any accommodation allowance. Please see paragraph 13 or contact the DBERR for further information.
- stipends or scholarships from UK or overseas medical bodies or government organisations.

45. The employer is responsible for ensuring that all elements of the salary are paid, ensuring that the National Minimum Wage is met and that the post is for a minimum of 30 hours per week.

46. MTI1 work permit applications that are made in respect of unpaid, self-funded appointments will fall for refusal.

47. Where a NHS Trust or Deanery is the employer a signed and dated letter of sponsorship or endorsement from the appropriate Royal College or similar organisation must accompany the MTI1 work permit application.

48. Participation in the MTI is not intended to lead to settlement in the UK. MTI permits will be granted for the period of training to a maximum period of 24 months, after which the individual will be expected to return overseas. Where a maximum period is approved the UK Border Agency will refuse applications for in-country extensions.

49. Where an in-country extension application is made under the MTI category, permission can only be given for the balance of the 24 months maximum period permissible, provided the extension relates to the training programme for which the original MTI permit was approved and all other criteria are met. Under these circumstances, and provided a timely application is made, the individual is not required to leave the UK.

50. Once the maximum period of stay is completed, individuals should leave the UK and return overseas. Thereafter, they will not be able to return under the MTI category. They may, however, apply to return to the UK under any other category of the work permit arrangements. This is provided they have spent 12 months overseas if the overall duration of the training programme was for up to 12 months or 24 months if the programme was for more than 12 months.

51. Full details of all the posts your medical specialists will occupy during their training should be supplied to us. The employer must notify us of any subsequent changes to the address where the employment will take place, or if posts will be occupied that were not envisaged at the time of the initial application, during the validity of the MTI permit.

52. These conditions do not apply where the employer is a NHS Trust and where the individual's training rotations are in hospitals within that Trust. Please see the TWES employer guidance notes, paragraphs 118 to 124, for further information on technical changes of employment.

53. If there is a need to employ an individual who already has a MTI permit with another employer, a change of employment application will be required. Please see paragraphs 110 to 117, for further information on changes of employment.

54. The MTI category does not allow individuals to take up supplementary employment.

55. There is no need to demonstrate that the medical specialist will be additional to your normal staffing requirements as required by the overall TWES criteria.

56. Under the current Immigration Rules, only students may apply to switch into the MTI category, without leaving the UK, provided they satisfy the MTI criteria. Individuals who are in the UK already undertaking permit-free training may apply to switch into the MTI category.

57. The individual may bring their dependants to the UK and they may work during the period for which the MTI permit is approved.

58. To apply for MTI permits for medical professionals, doctors or dentists sponsored or administered by the Royal Colleges or similar organisations, use form MTI1 for a first application and for extensions of the original application. The MTI1 application form is available on our website at www.ukba.homeoffice.gov.uk.

Work for which we do not issue permits

59. We do not issue TWES permits for:

- self-employment;
- people in the sports and entertainment sectors;
- multiple entry permits; or
- training and work experience below N/SVQ level 3 or equivalent

60. A person will not normally qualify for a TWES permit if they have, or have had, a significant shareholding or beneficial interest in the UK company for whom they intend to work or in a

connected business. They may qualify for a permit if their shareholding represents a very small proportion of the shares issued, typically no more than 10% and the shares were given to them as part of a pay package linked to their employment. They should not have a significant or controlling interest in the company by virtue of their shareholding.

61. We will not issue a TWES permit if the service that the employer is providing to a client is the supply of personnel only. Consequently, we do not issue TWES permits to recruitment or employment agencies and similar types of business where they are employing a person solely to provide the person's services to one or more clients under a contract.

62. It is important to note that an individual who holds a TWES permit will not be allowed to transfer to work permit employment.

63. If the person is currently or was on a TWES permit for up to 12 months, they will not be eligible to return for a further work permit until they have spent 12 months outside the UK.

64. If the person is or was on a TWES permit for over 12 months, they will not be eligible to return for a further work permit until they have spent 24 months outside the UK.

65. Some flexibility may be allowed if the work permit is for a job in a shortage occupation or if the person will have been out of the country for the required period by the time they intend to take up the job.

Section 2 – Making an application

How and when do I apply?

66. Where an application has been made to employ a person who is outside of the UK at the time of the application, we will issue a TWES permit, which should be forwarded on to the person overseas so that they can apply for entry clearance.

67. Where the person is already in the UK at the time of the application we normally issue a letter of permission rather than a work permit.

68. If a person who is present in the UK in an Immigration category other than work permit employment and they do not qualify for Further Leave to Remain under the Immigration Rules on switching (see paragraph 175), you may wish to ask for a work permit to be issued rather than a letter of permission for the person to use to apply for entry clearance when they return overseas. In such a case mark the appropriate box (b) on the WP1 application form.

69. Where a work permit is issued the person must return overseas and use the work permit to apply for entry clearance to re-enter the UK. They cannot work in the UK on the basis of the work permit alone. If they do not return overseas to gain entry clearance and begin/continue to work for the employer in the UK then they would be in breach of their immigration status and could be subject to removal from the UK. You should apply no more than six months before you want to bring them into the country.

70. Please use form WP1 when applying for TWES permits and for changes of employment or use WP1X for extensions (for extensions see section 3) to existing TWES permits.

71. To apply for MTI permits for medical professionals, doctors or dentists use form MTI1 for a first application, change of employment and for extensions of the original application.

Please note: We reserve the right to check documentation that you supply with your application and if necessary verify the details provided. Submission of false or forged documents, or other misleading information, may result in refusal of applications.

How much does a work permit cost?

72. Applications for TWES permits are subject to a charge of £190 for each application. Further details of the charge and the process that will need to be followed when making applications under these arrangements, can be found in the Payment

Guidance Notes. These are available from the distribution centre on 0117 344 1471 or from our website www.ukba.homeoffice.gov.uk.

Where can I get a TWES permit application form?

73. There are three ways to complete the WP1 application form. These are through:

1. a website version you can download and complete on screen from our website www.ukba.homeoffice.gov.uk
2. a printed copy you can obtain from the distribution centre on 0117 3441471 (between 9.00am and 5.00pm, Monday to Friday).
3. an electronic version, from our E-forms package, available from our website www.ukba.homeoffice.gov.uk that you complete and send to us online.

The MTI1 application form is available on our website or from our distribution centre.

What if I want to use a Representative?

74. If you make an application through a representative/agent who is not part of your business or organisation they must fill in and sign the representative declaration.

75. If you choose to use a representative, you must sign the completed application and verify that all the information is correct.

76. Representatives acting on behalf of an employer who are offering advice and services provided in connection with an Immigration Employment Document application need to be registered with the Office of the Immigration Services Commissioner (OISC), unless they are exempt from the requirement to do so. This is a requirement of Section 84 of the Immigration and Asylum Act 1999. The TWES permit application form requires representatives to tick the appropriate box indicating whether they are registered or the basis on which they are exempt from the registration requirement (see paragraph 83 for OISC contact information).

77. The UK Border Agency reserves the right to contact the employer directly to verify details of work permit applications.

78. If you are not required to register because you are regulated by a designated legal professional body (as defined by the Immigration and Asylum Act 1999, for example the Law Society) or if you work under the supervision of a registered person you will

need to provide us with supporting evidence. For example the name of the legal professional body and your membership number.

79. Members of a designated legal professional body that are not regulated by them for Immigration purposes (for example some registered foreign lawyers or non-practicing barristers) should ensure that they abide by the OISC codes of practice and seek regulation with the OISC if they wish to continue to provide immigration advice or services.

80. Anyone unsure of their status should contact the OISC.

81. Employers dealing with their own staff or prospective staff do not need to register with the OISC.

82. If a representative makes an application on behalf of an employer, and that representative is not permitted to provide advice and immigration services (by section 84 of the Immigration and Asylum Act 1999), the UK Border Agency will inform both the representative and employer of the new requirements of the Act, and send further letters and permits (if applicable) to the employer stated on the application.

83. Queries about OISC requirements should be addressed to:

OISC
5th Floor
Counting House
53, Tooley Street
London SE1 2QN

Tel: 020 7211 1500
Fax: 020 7211 1553
E-mail: info@oisc.gov.uk
Website: www.oisc.gov.uk

Who signs the Declaration?

84. At the end of the WP1, the WP1X and MT11 application forms, there are two declarations. The employer must fill in and sign the employer declaration in all cases.

85. Persons who are the subject of a TWES permit application may not sign the employer's declaration.

86. If you are completing the e-mail application form you must sign the form by entering a PIN number which is obtained by registering with us (see our website at www.ukba.homeoffice.gov.uk for guidance).

87. If either yourselves or your representative fail to include the signature or PIN number the application will be returned to you and will not be

regarded as a valid application, which may affect the timing of an extension application.

88. If your organisation has no employee in the UK with authority to sign (and the person does not qualify for 'sole representative' status under the Immigration Rules) the employer declaration may be signed by a UK registered solicitor, (but not by any other agent) with a letter of authorisation from the employer.

How do I get advice on making applications for TWES permits?

89. Further details on employing migrant workers can be found at www.businesslink.gov.uk. The site includes information on how to check staff, an outline of the legal requirements, case studies covering a range of sectors, a series of frequently asked questions and advice about Romania and Bulgaria migrants.

90. For general enquiries, advice about completing an application form or clarification of these guidance notes please contact our Customer Contact Centre at:

UK Border Agency
Customer Contact Centre
PO Box 3468
Sheffield
S3 8WA

Telephone: 0114 207 4074
Fax: 0114 207 4000
E-mail: wpcustomers@ind.homeoffice.gsi.gov.uk

91. Applications are allocated according to team resource. Please do not contact teams for progress checks, as this will hold up the consideration time. If you wish to check the progress of your application please visit our website at www.ukba.homeoffice.gov.uk. This website is regularly updated with useful information about the processing times of applications.

92. The team that considers the application will still write out to employers or their representatives direct. If you wish to discuss these letters, please contact the team stated on the correspondence.

Note 1 Please note that the contact details below do not necessarily indicate the team dealing with the applications; they are for contact purposes only.

Note 2 You should not send electronic applications to any of the e-mail addresses below.

If you wish to submit an electronic application please send it to:
office.forms@ind.homeoffice.gsi.gov.uk.

93. For employers beginning with the letters;

A - B

Phone: 0114 207 6002
Fax: 0114 207 6003
E-mail:
bt2.workpermits@ind.homeoffice.gsi.gov.uk

C - E

Phone: 0114 207 6004
Fax: 0114 207 6005
E-mail:
bt3.workpermits@ind.homeoffice.gsi.gov.uk

F - I

Phone: 0114 207 6006
Fax: 0114 207 6007
E-mail:
bt4.workpermits@ind.homeoffice.gsi.gov.uk

J - M

Phone: 0114 207 6008
Fax: 0114 207 6009
E-mail:
bt5.workpermits@ind.homeoffice.gsi.gov.uk

N - R

Phone: 0114 274 3307
Fax: 0114 274 3200
E-mail:
bt9.workpermits@ind.homeoffice.gsi.gov.uk

S - T

Phone: 0114 274 3308
Fax: 0114 274 3201
E-mail:
bt11.workpermits@ind.homeoffice.gsi.gov.uk

U - Z

Phone: 0114 207 6880
Fax: 0114 207 6448
E-mail:
bt13.workpermits@ind.homeoffice.gsi.gov.uk

If you wish to send your application by courier the delivery address is:

UK Border Agency
7th Floor
Fountain Precinct
Balm Green
Sheffield
S1 2JA

Whether you choose to use a courier or rely on the normal postal service, there will be a delay in processing your application if your application is sent to any address other than that given.

If you apply by using the E-forms package you should e-mail your application form and scanned attachments to us at:
office.forms@ind.homeoffice.gsi.gov.uk.

Please note: We reserve the right to request originals if we deem it necessary.

We will only accept application forms sent by the correct method.

95. We are not responsible for any items sent to us whilst in transit to or from our offices.

Where will the UK Border Agency send the permit and any other letters?

96. We will send all letters to the employer named on the application form unless you are using a solicitor or other representative. In most cases we will send the permit and all letters to them unless they are not permitted to provide immigration advice or service under section 84 of the Immigration and Asylum Act 1999 (see paragraph 76).

Where do I send the TWES permit application form?

94. If you have completed either the downloaded or the printed form please post it to:

UK Border Agency
PO Box 3973
Sheffield
S1 9BH

Section 3 – Extension, change of employment, technical change of employment and supplementary employment

Extension applications

97. If you want to apply for an extension to a TWES permit you should apply before the person's permission to stay in this country runs out. Please apply at least one month, but no more than three months, before this date.

98. If you wish to submit such an application more than 3 months before the person's stay expires, we will expect you to provide details as to why this is required. We will only consider such applications in exceptional circumstances.

99. For extension applications we will normally have information about your organisation and the person, so we will not need company information, references or qualifications. However, please read the previous approval letter and send any information we have requested. If you do not provide this we may limit the period of extension.

100. If your company was new at the time of our initial approval, please send us the information described in paragraph 8. We may also need details of extensions to contracts in some cases.

101. For work experience extension applications which have not been previously agreed you will need to send a revised work experience programme that covers the additional period requested and an explanation as to why this is required.

102. If a work permit extension application has been submitted, the individual may continue working with you whilst this application is being considered provided they either:

- continue to have valid leave to remain; or
- have submitted a further leave to remain (FLR) application before their existing leave to remain expires.

103. Details of how and when an individual should submit an FLR application, for the purposes of extending their existing leave in line with a work permit extension, are provided under Section 5 of these guidance notes.

104. Where neither of the conditions detailed in paragraph 102 are met, an individual should not continue to work after their leave to remain has expired whilst we consider the work permit extension application.

105. If the work permit extension application is refused, the individual will not normally be able to continue working with you beyond the leave to remain date stamped in their passport.

106. Where a work permit extension application has been refused and you intend to submit a review request, you should refer to Section 5, paragraphs 170 to 174 of these guidance notes, which provide advice on the leave implications associated with such a course of action.

107. If you want to extend a TWES permit you should fill in the WP1X form and state why and for how much longer.

108. If you are using the E-form application form, you should tick 'yes' to Question 8 on the WP1. This, in effect, converts the WP1 form to an extension application form.

109. Extensions will be approved only where we are satisfied that the person can successfully complete the training or work experience programme and the period is justified.

Change of employment applications

110. A person admitted to the UK as a TWES permit holder is admitted on the condition that they will be employed in the post, and at the address specified on the permit. It is important, therefore, if the holder is not to be found to be in breach of their conditions of stay in this country, that any change in their employment is notified to, and authorised by us.

111. A person found in breach of their conditions of stay may be liable to curtailment of their leave to remain in this country.

112. If the person is to fill a position that would otherwise be filled by a 'resident worker' you should apply for a Business and Commercial work permit on form WP1.

113. If you want to employ a person currently in the UK who already has a TWES permit in respect of training or work experience with another employer you should apply to us for permission using form WP1, for a medical training initiative use form MT11. We will need to receive your application either before they leave their current TWES or within 28 days of the person's last day of TWES with their previous employer, providing they will be doing the same type of training or work experience. You must wait for our permission before the person can start their new TWES training or work experience.

114. We will give permission only where the person is to continue a training or work experience programme which we have already approved. They should resume their training or work experience at

the stage they had already reached with their previous employer. We will approve only for the balance of the period agreed in the original application.

115. If a work permit change of employment application has been approved, the individual must apply to vary their leave to remain (FLR) to cover their change of employment. Details of how and when an individual should submit an FLR application, for the purposes of changing their existing leave in line with their work permit are provided under Section 5 of these guidance notes.

116. If you have any doubts about what constitutes a change of employment, please contact the relevant team referred to in paragraph 92.

117. For a change of employment applications please use form WP1 or our E-form application in which you should tick 'no' at question 8. For medical training initiative please use form MT11.

Technical changes of employment

118. If, during the validity of the work permit, you wish to amend any personal details of your employee or make minor changes to the information we hold, you should write to the following address:

UK Border Agency
PO Box 3468
Sheffield
S3 8WA

119. You should send details of the intended change and provide the person's worker reference number. For example, a technical change could be a change of name on marriage, change of your business address, or where both the employee and the specific job they were approved for, move location. Significant changes to the job, location or terms and conditions may require a change of employment application.

120. If we consider that the intended change can be treated as a technical change we will confirm this in writing and you should retain this letter with the original documents. If we do not consider it a technical change, a full change of employment application may be required (please see paragraph 110).

121. Please do not send passports to the team when notifying us of a technical change of employment. We only require to see a copy of the leave to remain stamp, which can be found in the person's passport.

122. If you do not inform us of such a change of address, then it is possible that UK Border Agency, during a compliance check (see paragraphs 126 - 149) will be unable to locate your company or the employee concerned. If this happens, we may revoke the TWES permit(s) concerned, and curtail the leave to remain in the UK of the TWES permit holders. This may lead to the TWES permit holder being removed from the UK by the UK Border Agency, and it may make it difficult for those concerned to return to the UK in any capacity in the future. It may also lead to difficulties for your company in having subsequent work permit or TWES permit applications approved, and in some cases, may cause the UK Border Agency to instigate legal proceedings against employers.

123. When a person's employer is taken over by another employer, the new employer should write to the team who deal with their applications providing full details and a copy of the person's leave to remain stamp, which can be found in the person's passport, and quoting the worker's reference number.

124. If there is restructuring within the company as a result of the takeover you should send us details of the restructure for example evidence of any redundancies. We will assess whether a new TWES permit application is required.

Supplementary employment

125. TWES work permit holders may not undertake supplementary employment.

Section 4 – Verifying applications and Abuse

Verifying Applications

126. We aim to consider your application swiftly. However, we must also be confident that applications meet the TWES permit criteria, and that the statements and information that employers and representatives provide are a true reflection of what actually happens whilst the work permit holder is in the job concerned.

127. The UK Border Agency reserves the right to verify details. If full contact details are not provided by you or your representative, we may refuse the application.

128. We will ask for a variety of material to support your case during the consideration of your application. In some cases, particularly if your company has not made an application before, or not for some time, we may also visit your company before we make a final judgement on whether to approve your application(s).

129. The application form will ask you to indicate from which British post overseas the person is likely to request entry clearance. The UK Border Agency may contact the relevant overseas post in order to verify the experience of the person subject to the TWES permit application. Where there is a doubt on the level of experience that can be gained from the previous employer providing the reference, we may request further evidence of the person's experience.

130. The application form will query how the employer verified the skills of the overseas person in order to confirm that the overseas person has the skills not available from resident workers.

131. In some cases, if we have approved your TWES permit, we may also carry out a compliance check to ensure the ongoing validity of the work permit.

132. The purpose of the compliance check is to make sure that the information given on the work permit application is a true reflection of the employment being offered. We will check that:

- the information given about the employer is accurate and complete.
- the information given about the job and conditions of employment are accurate and complete.
- the employer is able to offer the employment described on the application form.

133. You agree to co-operate with these checks when you sign either the employer or representative declaration page of the TWES permit application forms.

When do we carry out a compliance check?

134. Checks may happen either at the time you apply for a work permit (pre-issue), or once the work permit holder has taken up employment (post-issue).

135. Companies that are subject to a check may have been chosen at random, therefore being the subject of a compliance check does not mean that there is any doubt regarding the application submitted.

136. We may make these checks at any time during the application process or during the validity of a work permit.

What happens during a check?

137. The UK Border Agency Compliance Team carry out checks. If we plan to visit we usually, though not always, contact the employer to arrange a mutually convenient time. The Compliance Team will then gather material to support the information provided on the application form. We may also wish to speak to work permit holders, colleagues and managers involved in the work permit employment.

138. If we have not yet issued a work permit, then we will focus on verifying that the employer is capable of offering the employment specified on the application form. For example, we would check that the employer has suitable premises, has a genuine vacancy, that they have been unable to fill with a resident worker, and holds appropriate licences, etc to offer the employment as specified on the work permit application.

139. If we have already issued a work permit, we may make a check by telephone or letter and will ask for material to support the information provided on your application. This is to verify that the information provided on the application form was a full and accurate description of the conditions of employment being undertaken, and that the skills, experience, gross pay and duties of the overseas national are as described on the application form.

140. The Compliance Officers visiting your premises will have official UK Border Agency identification. If you have any doubts that their presence is bona fide, please speak to your usual UK Border Agency contact and ask to be put through to the Compliance Team or ring the telephone number shown in paragraph 149 of this guidance.

What happens after a check?

141. Where we have carried out a check before a decision has been made on your application, the Compliance Team will report their findings to the team dealing with your application within the UK Border Agency. They will then make the decision on your application using all of the information you provided.

142. The team responsible for making the decision on your application will let you know the outcome. This process will normally be complete within 4 weeks of the date of your application reaching us.

143. Where the UK Border Agency has already issued a work permit, the Compliance Team will write to you to let you know the outcome of the visit.

Discrepancies or issues discovered during checks

144. We anticipate that, on many occasions, checks will not reveal any problems. In these cases, we will notify you that we are satisfied that everything is in order.

145. Where there are discrepancies discovered before we have made a decision on your application, the team will let you know whether they require further information before making their decision on your application(s).

146. If we find discrepancies on applications where the work permit has already been issued and the overseas worker has taken up post, we will work with you to take steps to bring the employment back in line with the work permit arrangements if possible.

147. However, there may be occasions where we find evidence to show that an employer or representative has knowingly deceived us, or where we cannot verify the statements made in the application. In these cases, the Compliance Team have the right to revoke the work permit(s), and consequently curtail the leave that the overseas national has to remain in the UK. Where appropriate, we may instigate prosecution of employers (or representatives) under the relevant immigration, or other, legislation.

148. Where an employer, or representative has been shown to attempt deception on occasions in the past, the UK Border Agency reserves the right to refuse to approve applications where that employer or representative is involved.

149. The Compliance Team can be contacted at:

UK Border Agency
Compliance Team
PO Box 3468
Sheffield
S3 8WA

Tel: 0114 207 6819

Fax: 0114 207 6828

E-mail:

CVT.workpermits@ind.homeoffice.gsi.gov.uk

Allegations of abuse of the work permit arrangements

150. An employer who uses deception to obtain a work permit may commit a criminal offence. The UK Border Agency's Intelligence Unit in Sheffield deal with information in respect of abuse of the work permit arrangements, carry out investigations and, if appropriate, inform the relevant authorities of its findings.

151. All work permit applications are confidential between the employer and the UK Border Agency and information submitted by the employer in support of an application cannot, therefore, be divulged to a third party except to other Government Departments and Agencies and Local Authorities to enable them to carry out their functions.

152. Each allegation of abuse of the TWES permit arrangements is treated in the strictest confidence. The Intelligence Unit will not be able to advise you of the progress or results of any investigation relating to this information. This is for the following reasons:

- The Data Protection Act (1998) - the provisions of this Act means we cannot disclose information we hold on an individual to a third party unless requested to do so by, or with the written consent of, the party concerned.
- The UK Border Agency's Code of Practice - all investigations are pursued in compliance with the Data Protection Act (1998), the Human Rights Act (1998) and the Regulation of Investigatory Powers Act (2000). This prevents us giving feedback to people who provide information which lead to investigations, and if we were to breach this, it could compromise the success of any prosecution of an identified offender.
- Potential damage to ongoing investigations - the potential damage that disclosure might have on any investigation conducted by us or other government agencies.

Valid from 01/04/2008

153. If you have information about abuse of the TWES permit arrangements, you can contact the Intelligence Unit at:

UK Border Agency
Intelligence Unit
PO Box 3468
Sheffield
S3 8WA

Tel.: 0114 279 3480

Fax: 0114 279 3482

E-mail: workabuse@homeoffice.gsi.gov.uk

Section 5 - Immigration

Immigration Clearance

154. TWES permit holders who are either a British National (Overseas), a British Overseas Territories Citizen, a British Overseas Citizen, a British Protected Person or a person who under the British Nationality Act 1981 is a British subject are not required to gain entry clearance. However, individuals falling into the above categories who choose not to obtain entry clearance before travelling, should be aware that they will only be granted six months leave to enter. They will therefore need to apply for an extension to their work permit and further leave to remain before this six month period has elapsed. Both of these applications will incur the appropriate charges.

155. TWES permit holders who are non-EEA nationals (including non-visa nationals) who wish to come to the UK for more than 6 months must obtain entry clearance before travelling. If clearance is granted it will usually be for the full period of their stay as stated on the work permit.

156. TWES permit holders who have a permit for six months or less are not required to obtain entry clearance unless they are a visa national. If a work permit holder has not obtained entry clearance and they leave the Common Travel Area (The UK, Channel Islands, Isle of Man and Republic of Ireland collectively form a common travel area) during the validity of their work permit, their landing permission will lapse.

157. They may be allowed to re-enter during the period of validity of a work permit by presenting the permit again to gain leave to enter. However, the possession of a work permit does not guarantee them automatic re-entry to the UK. The decision to grant re-entry is for the UK Border Agency to make. Where an Immigration Officer refuses re-entry, for example because the basis on which the work permit was first issued has changed, a new work permit would be required for re-entry to the UK.

158. If a work permit holder who needs to travel outside the Common Travel Area within the period of validity of their work permit has reason to believe their permit may not be accepted for the purpose of re-entry, they may wish to consider obtaining entry clearance before they travel.

159. If the person needs a visa, or any other form of entry clearance they must apply to their nearest British diplomatic post in their country of residence within six months from the date of issue of the work permit.

160. You can find out if someone needs a visa from any British Embassy, Consulate or High

Commission overseas, or from the UKvisas website at www.ukvisas.gov.uk.

161. The original permit must be produced to support the visa application (photocopies are not usually accepted). TWES permits are valid for six months from the date we issue them.

162. The issue of a TWES permit does not guarantee the issue of a visa and/or entry to the UK.

163. Some people will need to produce their TWES permit to get an exit visa from their own Government. You should allow time for this to happen.

164. It is not advisable to make any travel arrangements for the person you wish to employ until a decision on your TWES permit and, if applicable, their entry clearance or visa application has been approved.

What if the person has dependants?

165. With the introduction of the Civil Partnership Act 2004 the term partner now includes 'civil partner' and 'same sex partner'. The term 'dependant' now includes 'spouse', 'civil partner', 'unmarried partner', 'same sex partner' and 'child under the age of 18'.

166. The spouse or civil partner, unmarried or same sex partner and children of a TWES work permit holder may be admitted to the UK as dependants. The spouse or civil partner, unmarried or same sex partner of a TWES work permit holder will be given conditions of stay, which do not place any restrictions, other than those that would apply to a resident worker, on their taking employment or engaging in business. This normally applies when a dependant is granted more than 6 months leave, however, if a dependant is granted less than 6 months leave they will not normally be allowed to take up employment. Dependants over 18 have to complete their own form and pay the appropriate fee.

167. The exceptions to this are the dependants of Multiple Entry and Sectors Based Scheme work permit holders who, if they wish to accompany a work permit holder to the UK, must qualify for entry in their own right under another category of the Immigration Rules.

168. The dependants of Student Internships and General Agreement on Trade in Services work permit holders are allowed to come to the United Kingdom so long as they do so under the same rules as work permit holders.

169. A non-EEA national seeking entry to the UK as the dependant of a work permit holder must obtain prior entry clearance (see paragraph 159).

If the person is in this country how does this affect the application?

170. Once approval against the work permit criteria has been given the individual must apply to vary their leave to remain. This must be done using form FLR(IED), enclosing the appropriate fee (unless the individual is exempt from payment) and documents relevant to the application. It is important to ensure all relevant documentation is provided with the FLR(IED) form. Failure to do so will delay the application and may result in the application being returned.

171. For details on when and how to make a FLR application please refer to the FLR(IED) guidance notes, which are available on our website at www.ukba.homeoffice.gov.uk or from the distribution centre on 0117 344 1471.

172. Individuals should normally submit their FLR applications as soon as possible following notification that the work permit application has been approved **and in any event before their current leave expires** or within six months of the date of approval of the work permit, whichever is sooner.

173. It is the individual's responsibility to complete the form and pay the appropriate fee. However, there is no barrier preventing you, the employer, paying the fee to cover the cost of the FLR application and helping them complete the application form.

174. The person should not commence work until they have received approval for further leave to remain against the work permit decision, unless at the time the application was made the person had leave to enter or remain in an immigration category that permitted them to take full time employment with you in the United Kingdom; and the application was submitted prior to the expiry of any previous leave to remain here. If you are in any doubt, you should phone our Enquiry Bureau, on 0870 606 7766 or visit our website at www.ukba.homeoffice.gov.uk

The Immigration Rules on switching.

175. Under the current Immigration Rules, overseas nationals may apply to switch to TWES training or work experience without leaving the UK provided they satisfy the work permit criteria and have existing leave as:

- A student; or
- A postgraduate doctor or dentist who holds a valid work permit approval for a Medical Training Initiative (a sub category of TWES).

176. The exceptional waiving of the in-country switching rules will only be considered where there are compelling circumstances, detailed in the application and relating to the individual, which would make it unduly harsh for them to return to their country of residence.

177. If you make a work permit application for a person who does not qualify under the Immigration Rules' to switch into work permit employment (see paragraph 175), it will be considered and you will be charged for this consideration where appropriate. However, when the individual makes their application for Leave to Remain they should expect that this will be refused. Consequently they will not be permitted to start work with you. For further information on these switching rules please refer to our website: www.ukba.homeoffice.gov.uk.

How do I get further information on in-country immigration decisions and passports?

178. If you want advice about an in-country immigration decision or your passport, please contact us at:

0114 207 4074 – Customer Contact Centre

0114 207 6017 - Fax (for urgent requests and miscellaneous)

E-mail: wpukltr@ind.homeoffice.gsi.gov.uk

Section 6 – Frequently Asked Questions

What if the person does not take up the post or the employment ends prematurely?

179. It is important that the UK Border Agency is notified at once if the person does not take up the post or if the employment of a TWES permit holder ends prematurely, whether the employee leaves voluntarily or is made redundant. We should also be informed if your company ceases to trade while you still have work permit holders in your employ.

180. You should inform us by completing the "Notification of Premature End of Employment" form. The completed form is to be sent to the team who dealt with your original application. See paragraph 73 for details on how to obtain the form. If possible, you should also return the work permit.

181. If the training or work experience for which the TWES permit was issued ends prematurely, or a person admitted as a TWES permit holder does not take up the employment for which the TWES permit was issued, the person may be deemed to no longer meet the requirement of the Immigration Rules under which they were admitted and action may be taken to curtail their stay, and the stay of any dependants, in the UK.

182. Where training or work experience ends, the conditions attached to any remaining leave to remain will not confer permission to remain for the purpose of seeking alternative employment. If the person has found alternative employment, we may consider a work permit or TWES permit application from the new employer (see paragraph 110) but may not grant further leave to remain in the UK unless it is satisfied that the individual has taken steps to find new employment as quickly as possible.

In what circumstances can I request a reprint of a work permit?

Requesting reprints of work permits issued less than six months ago.

183. Reprinting work permits that are under six months old will apply in the following circumstances:

To correct errors and omissions

184. You, the employer, or your representative may request reprints of work permits and letters of permission from us to correct errors such as spelling mistakes or incorrect details such as mistyped passport numbers or dates of birth.

Requests should be made in writing within one month of receipt of your work permit. Reprints will be free of charge once your written request is received, accompanied by the original work permit or letter of permission. If the original work permit is not returned or is returned over one month from when you received your permit then your request will be refused and a fresh application, with fee, will be required.

- Please note, however, that if you request a reprint to change a detail on the permit or letter of permission that was central to the consideration of the original application your request will be refused where that request was made based upon your error or omission. By 'central' we mean, for example, if the length of permit requested was wrong, or the job title, or the address at which the person works, or the gross salary offered differs from that stated in the original application. You will be required to submit a fresh application enclosing the fee.

To replace a lost work permit

185. You may request a reprint of a permit lost in transit (includes lost overseas) that has not been used to enter the UK. Requests should be made in writing or by fax to the original team who made the decision. Reprints will be free of charge. If you request a reprint of a work permit that has been lost and has already been used to enter the UK by your employee and the loss has taken place in the UK, we will issue a work permit certificate free of charge. The UK Border Agency reserves the right to undertake investigations to determine the facts of each case. If the original permit is subsequently found, it should be returned, as the reprinted permit supersedes it.

Requesting reprints of work permits issued over six months ago.

186. Reprints of work permits issued over 6 months ago will be free of charge, provided that the original work permit is returned and all other conditions, as outlined below, are met. If it is not returned then a fresh application, with fee, will be required. Reprinting work permits that are over six months old will apply in the following circumstances only:

Where there has been a delay in obtaining entry clearance.

187. You should provide evidence of the delay in this circumstance, ie a written notice from the visa section, of the entry clearance interview date, and, submit your request no later than one month after the date of interview. The UK Border Agency reserves the right to confirm the genuineness of evidence provided. This may involve a pre-issue compliance check. If you do not submit a timely application or provide evidence of delay your

request will be refused and you will be required to submit a fresh application enclosing the fee.

Where delays arise from overseas nationals appeals against Entry Clearance Officers decisions not to grant leave to enter the UK.

188. You should provide evidence of the delay in this circumstance i.e. a copy of the Appeals and Immigration Tribunal (AIT) appeal determination letter and submit your request normally within six months of the date of the AIT letter. You should send a copy of the letter with your request.

189. Once the appeal decision is known, the original employer (or their representative) should request a reprint as soon as possible. You should not wait for the individual to be invited for interview by the ECO or to find out if the ECO will appeal against the appeal decision before requesting a reprint.

190. Requests submitted more than 6 months after the date of the AIT letter will only be considered if you can demonstrate an acceptable reason for the delay.

191. The UK Border Agency reserves the right to confirm the genuineness of evidence you provide. This could involve a pre-issue compliance check. If you do not submit a timely application or provide evidence of delay, your request will be refused and you will be required to submit a fresh application, enclosing the fee.

192. In both circumstances outlined above, as there will have been a significant time delay between the issue of the original work permit and the reprint request:

- You should confirm, in writing, that the original job for which the permit was sought remains open for the overseas national, that there remains a genuine vacancy and that the terms and conditions of employment have remained the same;
- Furthermore, we will only accept reprint requests from the original employer/representative. Where this involves a representative who did not act on your behalf at the time of making the original application, we reserve the right to contact you directly.

193. If the person is in the UK and you find an error in the length of time granted in the letter of permission, you must inform the team that dealt with your application. This is because the person's leave to remain is considered in line with any Immigration Employment Document (such as the letter of permission) that they hold. An error in the length shown may also be entered in the passport endorsement of Leave to Remain unless the error

is corrected immediately.

What if I do not agree with the decision on my application?

194. The decision letter we send to you will explain the result of our consideration of your application. If we cannot approve your application the letter will explain why, and if appropriate give details of how to request reconsideration of the decision.

195. If our letter informs you that the information did not meet our criteria, and you wish to re-apply with further information, please complete a WP1 or WP1X form and include the appropriate payment. You should include further evidence to support your application including, but not restricted to, the issues raised in our letter.

196. If you think that the decision based on the information sent in with your original application was an error, and you wish us to reconsider your previous application, please write a letter to the following address:

UK Border Agency
PO Box 3468
Sheffield
S3 8WA

197. You should write within 28 days of the date of original decision letter and explain why you believe that the decision was wrong, with reference to the guidance notes, and make it clear that you are requesting a review of the decision on your previous application. There will be no fee for this consideration, providing you are not asking us to consider new information.

198. The Reviews Team will consider the grounds of refusal provided in respect of your initial work permit application and also undertake a full review of all other elements of the work permit decision.

199. Before making a decision we may contact the employer/representative for further information to clarify/support the evidence provided with the initial work permit application.

200. Where we identify further grounds for refusal the decision to maintain refusal of an application will stand even when the original ground for refusal has been overturned.

201. The Reviews Team will only accept two reviews per original application refused. If your initial review is unsuccessful, you will only be able to seek one further review of the original application. Any further requests for a review received for the same original application will be returned to you. If you wish to proceed with the application, please complete a fresh application form, enclosing the appropriate fee.

202. Occasionally, an individual will be required to submit their FLR application before the outcome of the work permit application. In these circumstances, the FLR application will normally be held until the work permit decision is made. At this point, unless we are advised otherwise, the FLR application will be considered and a decision made. If the work permit application is refused, this will result in the FLR application being refused.

203. Although there is a 28 day period to submit a request for review of the work permit decision, if you have already submitted the FLR application, it is important that you notify us of your employer's intention to request a review immediately. If you do so, we will not make a decision on the FLR application until the review has been decided.

204. The Reviews Team can be contacted on:
Telephone: 0114 274 3188
Fax: 0114 274 3103
E-mail:
reviews.workpermits@ind.homeoffice.gsi.gov.uk

Guidance for Employers

Guidance Notes available:

- General Information - product code GI(G)
- Service Standards - product code SS(G)
- Payment Guidance - product code PAY(G)
- Business and Commercial - product code BC(G)
- Training and Work Experience Scheme - product code TWES(G)
- Sports and Entertainments - product code SE(G)
- Sectors Based Scheme (non Bulgarian and Romanian Nationals) Extensions and changes of employment - product code SBS(G) - Only available on our website
- Sectors Based Scheme (Bulgarian and Romanian Nationals only) - product code SBSBR(G)
- Student Internships - product code SI(G)
- General Agreement on Trade in Services for UK Contractors - product code GUK(G)
- General Agreement on Trade in Services for Overseas Employers - product code GOE(G)

If you wish to request copies of the guidance notes please contact our distribution centre on Tel: 0117 344 1471 or visit our website at: www.ukba.homeoffice.gov.uk

Welsh, Braille, large print, and other alternative formats are available on request. For further information on alternative formats, and how to obtain these, please contact the Customer Contact Centre on 0114 207 4074

Who can I contact for further Information?

For general information contact our customer contact centre on:

Telephone: 0114 207 4074
Fax: 0114 207 4000
E-mail: wpcustomers@ind.homeoffice.gsi.gov.uk

or visit our website: www.ukba.homeoffice.gov.uk

TWES(G)