

SCOTTISH EPISCOPAL CHURCH

Guidance Note Regarding Employment Procedures

1. Right to Work in the UK

Under the Immigration, Asylum and Nationality Act 2006, it is a criminal offence for an organisation to employ anyone who does not have the right to live and work in the United Kingdom. The consequences of failure to comply with the legislation include a civil penalty of up to £10,000 or, on criminal conviction, imprisonment of up to two years. It is, therefore, essential that proper checks are carried out before any new employee commences employment. The checking of appropriate documents provides a “statutory excuse” which may prevent any penalty being payable.

Under Race Relations legislation, it is illegal to discriminate on grounds of race, colour, ethnic or national origin or nationality. Consequently, the best way to ensure that applicants are not discriminated against, is to treat all applicants the same way at each stage of the recruitment process. This means that the appropriate document checks should be carried out on all prospective employees and no presumptions (based on factors such as background, appearance or accent) should be made about a person’s right to work in the UK. As a prospective employer, it is essential to must ensure that:-

1. You have seen one, or the appropriate combination of, the original (not a copy) of documents contained in Lists A and B set out in Appendix I below for the candidate.
2. You have seen one of the additional documents required for candidates from Bulgaria, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Slovakia, and Slovenia.
3. You have followed the reasonable steps listed below to check the authenticity of the documents.
4. You have kept a copy of the relevant parts of the document.

An “Eligibility to Work Checklist” is set out in Appendix II below to enable compliance with the procedures.

In most cases, clergy are not regarded as “employed” and therefore the required checks indicate below will not be strictly necessary. However, the Border Agency recommends that where there is any doubt as to whether the appointee is an employee, then the checks should be carried out. Since a clergy appointment will in any event be subject to the necessary child protection identity procedures, it is recommended that at the same time as carrying out the necessary child protection identity checking, the appropriate documents referred to below be checked and copies retained.

2. Checking Documents for Evidence of Right to Work in the UK

When viewing documents for evidence of right to work in the UK, the following checks are recommended:

- **Photographs** - does the person look like the photographs on their document(s)?
- **Dates of Birth** – are the dates consistent with the appearance of the candidate?
- **Expiry Dates** – if the documents have an expiry date, are the documents still valid?
- **Stamps and Endorsements** – do the passport stamps allow the applicant to do the type of work you are offering?
- **Names** – is the same name used on all the documents?
- **Valid and Genuine** – satisfy yourself that the documents have not been tampered with and are valid.

3. Retaining Copies of Documents

Once you have checked the original documents that relate to the individual presenting them to you, you need to take photocopies of them. You *must* copy:-

- The document's front page and any page containing the holder's details.
- Any page that provides details of nationality, his or her photograph, date of birth, signature, date of expiry or biometric details.
- Any page containing UK Government endorsements indicating that the holder has an entitlement to be in the UK and is entitled to undertake the work in question.
- Any other document in its entirety.

You should mark each copy "verified copy of the original" and sign and date each copy you have taken, placing the information on the personnel file maintained for the candidate. The documents must be stored for two years after the end of the employment.

Where the individual does not have a permanent right to remain in the UK, follow up checks must be carried out every twelve months by doing a complete review of documentation and taking new photocopies of the relevant documents, recording the dates and securely storing the copy.

European Economic Area Nationals

Nationals of the following countries can work in the UK without restriction (but you must still carry out the checks mentioned above): Austria, Belgium, Cyprus, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Portugal, Spain and Sweden. Nationals from Switzerland also have the same free movement and employment rights.

Nationals from the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia.

Nationals from any of these countries (known as the A8 countries) need to register with the Border Agency within one month of starting work, unless they have a specific exemption (normally a passport stamp). In order for the employee to make an application they must provide evidence of their employment and you must take a copy of their application form before they send it to the UK Border Agency. You need to check that the worker submits their application within one month of their starting work with you. When the worker has successfully registered, the Home Office will send you a copy of the Registration Certificate which you should retain on file. It will expire on the day the worker stops working for you.

If a prospective employee informs you that they are exempt from registering under the scheme you will need to ask them for documentary evidence of their exemption. The documentation provided to you must be checked against the list of valid documents for exemptions from the Worker Registration Scheme.

Nationals from Romania and Bulgaria

Before employing a national from Romania or Bulgaria (known as the A2 countries) you must check whether they need to be authorised to work by the UK Border Agency. You must see and retain a copy of either a valid accession worker authorisation document or, if they inform you that they are exempt from registering, a valid exemption registration certificate (because they were already working in the UK prior to accession) to ensure that they have the correct entitlement to work. Candidates who entered the UK on or after the accession date may have an entitlement to work in the UK and do not require further authorisation.

Acceptable evidence of exemption is as follows:-

- (a) Those with permission to work by means of a work permit or leave to remain giving permission to work in the UK before 1st January 2007;
- (b) A national passport or travel document containing a valid endorsement which states that the holder is a family member of an EEA or Swiss National; or
- (c) A registration certificate as a highly skilled migrant, an individual in the International Graduate Scheme, or in the Scottish Graduate Scheme; or
- (d) Students who intend to work less than 20 hours a week during term-time and are in possession of a yellow registration certificate confirming that he or she has this restricted permission to take employment; or
- (e) A passport or travel document containing a valid endorsement which shows that the holder has either:
 - (i) indefinite or exceptional leave to remain in the UK or has been granted limited leave to enter or remain with no immigration restriction on employment; or
 - (ii) limited leave to enter or remain with specified restrictions on employment which are being observed; or

- (iii) dual nationality with the UK, Switzerland or one of the EEA countries other than Bulgaria or Romania.
- (f) A valid registration certificate that includes a statement that the holder has unconditional access to the UK labour market;
- (g) A Seasonal Agricultural Workers' Scheme card;
- (h) A2 nationals who have been given permission to work and have worked under that permission legally on a continuous basis for 12 months, obtains full movement rights as a worker under EU Law. They are then exempt from a requirement to obtain a worker authorisation document.

November 2008

The General Synod of the Scottish Episcopal Church does not accept responsibility for any loss or liability which may arise from reliance on information or expressions of opinion contained in this document.

General Synod of the Scottish Episcopal Church
Scottish Charity No SC015962

APPENDIX I

Acceptable Documents Requiring to be Checked and Copied

List A (Part 1)

Any one from the following list of documents is acceptable:

- (a) A current passport showing the holder, or a person named in the passport as a child of the holder is: (i) a British citizen or (ii) a citizen of the UK and Colonies having the right of abode in the UK,
- (b) A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
- (c) A residence permit, registration certificate or document certifying or indicating permanent residence, issued by the Home Office or Border Agency to a national of an EEA country or Switzerland or a family member of that national.
- (d) A Biometric Immigration Document issued by the 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
- (e) 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 the candidate cannot provide one of the above documents, they can prove their eligibility by providing one of the following combinations of documents from List A (Part 2).

List A (Part 2)

- (a) An official document issued by a previous employer or Government Agency which contains the permanent National Insurance number and name of the person e.g. P.45, P.60, National Insurance card, letter from a Government Agency etc.
- (b) Plus one of:-
 - (i) an immigration status document issued by the Home Office or the Border Agency to the holder with an endorsement indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK; or
 - (ii) A full birth certificate issued in the UK which includes the name(s) of at least one of the holder's parents, or a full birth certificate issued in the Channel Islands, the Isle of Man or Ireland; or

- (iii) a full adoption certificate issued in the UK which includes the name(s) of at least one of the holder's adoptive parents, or a full birth certificate issued in the Channel Islands, the Isle of Man or Ireland; or
- (iv) a certificate of registration or naturalisation as a British citizen; or
- (v) A letter issued by the Home Office or Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the UK.

If the candidate cannot provide the documents required from List A, they can prove their eligibility by providing *either* one of the documents from List B (Part 1) *or* one combination of the documents from List B (Part 2).

**List B
(Part 1)**

- (a) A passport or travel document endorsed to show that the holder is allowed to stay in the UK and is allowed to do the type of work in question, provided that it does not require the issue of a work permit; or
- (b) A Biometric Immigration Document issued by the Border Agency to the holder which indicates that the person named in it can stay in the UK and is allowed to do the work in question; or
- (c) A residence- card or document issued by the Home Office or the Border Agency to a family member of a national of an EEA country or Switzerland.

**List B
(Part 2)**

Either

- (a) A work permit or other approval to take employment issued by the Home Office or Border Agency, combined with:
 - (i) A passport or other travel document endorsed to show the holder is allowed to stay in the UK and is allowed to do the work in question, or
 - (ii) A letter issued by the Home Office or Border Agency to the holder or the employer or prospective employer confirming the same.

Or

- (b) A Certificate of Application issued by the Home Office or Border Agency to or for a family member of a national of an EEA country or Switzerland, stating that the holder is permitted to take employment, which is less than six months old, or an Application Registration card issued by the Home Office or Border Agency stating that the holder is permitted to take employment, which you have checked with the Border Agency Employer Checking Service.

Or

(c) A document issued by a previous employer or Government Agency e.g. H M Revenue and Customs etc. which contains the NI number and name of the holder plus either:

- (i) An immigration status document issued by the Home Office or Border Agency to the holder with an endorsement indicating that the person named in it can stay in the UK and is allowed to do the type of work in question, or
- (ii) A letter issued by the Home Office or Border Agency to the holder or the employer or prospective employer which indicates that the person named in it can stay in the UK and is allowed to the type of work in question.

To see samples of the relevant documents against which you can check documents presented to you, see the UK Border Agency publication *Comprehensive Guidance for Employers on Preventing Illegal Working*, available from:-

<http://www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/currentguidanceandcodes/comprehensiveguidancefeb08.pdf?view=Binary>

APPENDIX II

ELIGIBILITY TO WORK CHECKLIST

SECTION 1: Applicant and Post Details

<p>Name:</p> <p>Post applied for</p>
--

SECTION 2: Document(s) presented

Evidence of eligibility to work in the UK must be obtained for ALL recruits before an unconditional offer of employment is made and before the contract of employment is issued. As it is necessary for the recruiter to have sight of and take copies of ORIGINAL documents it is strongly recommended that ALL applicants are asked to bring evidence of entitlement to work in the UK to interview and that checks on eligibility to work in the UK are carried out at interview stage

LIST A (Part 1) – Documents which confirm an individual has an on-going right to work in the UK - One document only required (See note re citizens from A2 and A8 countries¹)	Checked (1 doc)
A passport showing that the holder is a British citizen, or has a right of abode in the UK.	<input type="checkbox"/>
A passport or national identity card showing that the holder is a national of an EEA country or Switzerland.	<input type="checkbox"/>
A residence permit, registration certificate or other document issued by the Home Office or the Border Agency to a national from an EEA country or Switzerland indicating that the individual has permanent residence	<input type="checkbox"/>
A permanent residence card issued by the Home Office or the Border Agency to a family member of a national from an EEA country or Switzerland.	<input type="checkbox"/>
A passport or other travel document endorsed to show that the holder can stay indefinitely in the UK, has the right of abode in the UK or has no time limit on their stay.	<input type="checkbox"/>
A Bio-metric Immigration document issued by the Border and Immigration Agency indicating that the individual is allowed to stay indefinitely in the UK or has no time limit on their stay.	<input type="checkbox"/>

LIST A (Part 2) – Documents which confirm an individual has an on-going right to work in the UK but where 2 documents are required (See note re citizens from A2 and A8 countries)	Checked (2 docs)
A document giving the holder’s permanent National Insurance Number and name. This could be a P45, P60, National Insurance card, or a letter from a Government agency.	<input type="checkbox"/>
AND ONE OF THE FOLLOWING:	<input type="checkbox"/>
An Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it can stay indefinitely in the UK, or has no time limit on their stay	<input type="checkbox"/>
A full birth certificate/adoption certificate issued in the UK, which includes the names of at least one of the holder’s (adoptive) parents.	<input type="checkbox"/>
A birth certificate/adoption certificate issued in the Channel Islands, the Isle of Man or Ireland.	<input type="checkbox"/>
A certificate of registration or naturalisation stating that the holder is a British citizen.	<input type="checkbox"/>
A letter issued by the Home Office to the holder which indicates that the person named in it can stay indefinitely in the UK, or has no time limit on their stay.	<input type="checkbox"/>

LIST B (Part 1) Documents which confirm an individual has a time limited right to work in the UK – One document only is required	Checked (1 doc)
A passport or travel document endorsed to show that the holder is allowed to stay in the UK and do the type of work in question, provided this does not require the issue of a work permit	
A Biometric Immigration Document issued by the Border Agency indicating that the individual can stay in the UK and is allowed to do the work in question	
A residence card or document issued by the Home Office or Border Agency to a family member of a national from the EEA or Switzerland	

LIST B (Part 2) Documents which confirm an individual has a time limited right to work in the UK – but where two documents are required	Checked (any one category)
A work permit or other approval issued by the Home Office or Border Agency AND either a passport or other travel document endorsed to show the holder may stay in the UK and do the work in question or a letter issued by the Home Office or Border Agency to the holder or employer or prospective employer confirming the same	
Either a Certificate of Application issued by the Home Office or Border Agency to or for a family member of a national of an EEA country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old or an Application Registration Card issued by the Home Office or Border Agency stating that the holder is permitted to take employment. In either case you must also be satisfied that either such document has been checked by the Border Agency Employer Checking Service.	
A document issued by a previous employer or Government Agency (eg HM Revenue and Customs) which contains the National Insurance number and name of the holder (eg a P45 or P60 or National Insurance card) AND either an Immigration Status Document issued by the Home Office or the Border Agency with an endorsement indicating that the individual can stay in the UK and undertake the type of work in question or a letter issued by the Home Office or Border Agency to the holder or the employer or prospective employer indicating that the person named in it can stay in the UK and is allowed to do the work in question.	

SECTION 3: General Checks

The following reasonable checks should be made:	Checked
Photographs consistent with the appearance of potential employee	
Dates of birth listed consistent with the appearance of potential employee	
Expiry dates have not been passed	
UK Government stamps or endorsements do not restrict the employee from undertaking the work in question	
The documents look genuine and do not appear to have been tampered with	
*If documents presented from Part 2 of list A or B have different names, a third document should be requested to explain the reason for this e.g. a marriage certificate, divorce document, deed poll, adoption certificate or statutory declaration.	

SECTION 4: Copies to be taken

The following parts of an individuals PASSPORT MUST be photocopied	Copies
Front cover (note: passports for nationals from some countries have the front cover on the back)	
All pages containing individual's personal details e.g. photograph, signature, date of birth, etc.	
All pages containing a UK Government stamps or endorsements which allow the individual to do the type of work being offered.	
All other documents should be copied in their entirety	

SECTION 5: Work Permits

If the individual to whom you wish to make a job offer does not have a current entitlement to work in the UK, provided that the post is at an appropriate level of seniority and requires specific academic or professional qualifications, it may be appropriate for the General Synod Office (GSO) to apply for a Certificate of Sponsorship to enable the employment of the individual. The GSO will make this application for you. You will need to provide proof that the job has been advertised in open competition, a verified copy of the relevant pages from the individual's passport, verified copies of the individuals highest/most relevant educational/professional certificates and a minimum of two employment references. Advice is available from the GSO.

Check undertaken by:

Date:

ⁱ Note: Citizens of Bulgaria and Romania (A2 countries) are permitted to work as members of the EEA but require advance authorisation from the Border Agency. You must have SIGHT OF and copy the individual's authorisation card or certificate in advance of him/her commencing employment. Citizens of the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia, and Slovenia (A8 countries) are permitted to work as citizens of the EEA but are required to register with the Border Agency within one month of commencing work