
STATUTORY INSTRUMENTS

2004 No. 755

The Immigration (Restrictions on Employment) Order 2004

Citation and commencement

1. This Order may be cited as the Immigration (Restrictions on Employment) Order 2004 and shall come into force on 1st May 2004.

Interpretation

2. In this Order—

“the 1996 Act” means the Asylum and Immigration Act 1996;

“the Immigration Rules” has the meaning given in section 33(1) of the Immigration Act 1971(1);

“Immigration Status Document” means a document issued by the Home Office containing an endorsement, which confirms that the holder has been granted indefinite or limited leave to enter or remain in the United Kingdom; and

“registration card” has the meaning given in section 26A(1) of the Immigration Act 1971(2).

Conditions specified under section 8(1) of the 1996 Act

3.—(1) The set of conditions in paragraph (2) and the condition in paragraph (3) are specified for the purposes of section 8(1) of the 1996 Act (no offence committed in employing a person who satisfies such conditions).

(2) The set of conditions are that—

- (a) the employee had limited leave to enter or remain in the United Kingdom which did not preclude his taking the employment in question;
- (b) the employee applied to the Secretary of State for variation of that leave; and
- (c) the employee is within the period during which an appeal could be brought or has a pending appeal under Part 5 of the Nationality, Immigration and Asylum Act 2002(3), against refusal of that application.

(3) The employee is permitted to work under the Immigration Rules.

Requirements for the purposes of section 8(2) of the 1996 Act

4.—(1) The requirements set out in paragraphs (2) to (5) are requirements for the purposes of section 8(2) of the 1996 Act(4) (defence for a person charged with an offence under section 8 to prove that before the employment began any such requirement was complied with).

(2) There must have been produced to the employer either—

(1) 1971 c. 77.

(2) Section 26A was inserted by section 148 of the Nationality, Immigration and Asylum Act 2002 (c. 41).

(3) 2002 c. 41.

(4) Subsection (2) of section 8 was substituted by section 147(2) of the Nationality, Immigration and Asylum Act 2002.

- (a) a document of a description specified in Part 1 of the Schedule, or
- (b) one document of a description specified in—
 - (i) each of sub-paragraphs (a) and (b) of paragraph 1 of Part 2 of the Schedule; or
 - (ii) each of sub-paragraphs (a) and (b) of paragraph 2 of that Part.
- (3) The employer must have taken the steps specified in Part 3 of the Schedule to copy or record the content of any document produced to him in accordance with paragraph (2).
- (4) The employer must have satisfied himself that each document produced in accordance with paragraph (2), appears to relate to the employee in question; in particular—
 - (a) if a document contains a photograph, the employer must have satisfied himself that the person photographed is the employee in question, and
 - (b) if a document contains a date of birth, the employer must have satisfied himself that the date of birth is consistent with the appearance of the employee.
- (5) If either—
 - (a) the name on a document produced under paragraph 1(a) of Part 2 of the Schedule differs from the name on a document produced under paragraph 1(b) of that Part; or
 - (b) the name on a document produced under paragraph 2(a) of Part 2 of the Schedule differs from the name on a document produced under paragraph 2(b) of that Part,a document must have been produced to the employer explaining the difference.

Revocation

- 5. The Immigration (Restrictions on Employment) Order 1996(5) is hereby revoked.

Home Office
15th March 2004

Beverley Hughes
Minister of State