
STATUTORY INSTRUMENTS

2004 No. 1219

**The Accession (Immigration and
Worker Registration) Regulations 2004**

PART 3

Accession State worker registration

Requirement for an accession State worker requiring registration to be authorised to work

7.—(1) By way of derogation from Article 39 of the Treaty establishing the European Community and Articles 1 to 6 of Regulation (EEC) No. 1612/68⁽¹⁾ on freedom of movement for workers within the Community, an accession State worker requiring registration shall only be authorised to work in the United Kingdom for an authorised employer.

(2) An employer is an authorised employer in relation to a worker if —

- (a) the worker was legally working for that employer on 30th April 2004 and has not ceased working for that employer after that date;
- (b) the worker —
 - (i) during the one month period beginning on the date on which he begins working for the employer, applies for a registration certificate authorising him to work for that employer in accordance with regulation 8; and
 - (ii) has not received a valid registration certificate or notice of refusal under regulation 8 in relation to that application or ceased working for that employer since the application was made;
- (c) the worker has received a valid registration certificate authorising him to work for that employer and that certificate has not expired under paragraph (5); or
- (d) the employer is an authorised employer in relation to that worker under paragraph (3) or (4).

(3) Where a worker begins working for an employer on or after 1st May 2004 that employer is an authorised employer in relation to that worker during the one month period beginning on the date on which the work begins.

(4) Where a worker was, before 1st May 2004, issued with leave to enter the United Kingdom under the 1971 Act as a seasonal worker at an agricultural camp and the worker begins working for an employer on or after 1st May 2004 as a seasonal worker at such a camp, that employer is an authorised employer in relation to that worker during the period beginning on the date on which the work begins and ending on the date on which the worker ceases working for that employer, or on 31st December 2004, which ever is the earlier.

(5) A registration certificate —

(1) OJ L 257, 19.10.1968, p. 2.

- (a) is invalid if the worker is no longer working for the employer specified in the certificate on the date on which it is issued;
 - (b) expires on the date on which the worker ceases working for that employer.
- (6) Regulation 2(7)(a) shall apply for the purpose of determining whether a person is legally working on 30th April 2004 for the purpose of this regulation.

Registration card and registration certificate

8.—(1) An application for a registration certificate authorising an accession State worker requiring registration to work for an employer may only be made by an applicant who is working for that employer at the date of the application.

- (2) The application shall be in writing and shall be made to the Secretary of State.
- (3) The application shall state —
 - (a) the name, address, and date of birth of the applicant;
 - (b) the name and address of the head or main office of the employer;
 - (c) the date on which the applicant began working for that employer;
 - (d) where the applicant has been issued with a registration card, the reference number of that card.
- (4) Unless the applicant has been issued with a registration card under paragraph (5), the application shall be accompanied by —
 - (a) a registration fee of £50;
 - (b) two passport size photographs of the applicant;
 - (c) the applicant's national identity card or passport issued by the applicant's State;
 - (d) a letter from the employer concerned confirming that the applicant began working for the employer on the date specified in the application.
- (5) In the case of an application by an applicant who has not been issued with a registration card under this paragraph, the Secretary of State shall, where he is satisfied that the application is made in accordance with this regulation and that the applicant —
 - (a) is an accession State worker requiring registration; and
 - (b) began working for the employer on the date specified in the application,send the applicant a registration card and a registration certificate authorising the worker to work for the employer specified in the application, and shall return the applicant's national identity card or passport.
- (6) In the case of any other application, the Secretary of State shall, if he is satisfied as mentioned in paragraph (5), send the applicant a registration certificate authorising the worker to work for the employer specified in the application.
- (7) A registration card issued under paragraph (5) shall contain —
 - (a) the name, nationality and date of birth of the applicant;
 - (b) a photograph of the applicant;
 - (c) a reference number.
- (8) A registration certificate issued under paragraph (5) or (6) shall contain —
 - (a) the name of the applicant;
 - (b) the reference number of the applicant's registration card;

- (c) the name and address of the head or main office of the employer, as specified in the application;
- (d) the date on which the applicant began working for the employer, as specified in the application; and
- (e) the date on which the certificate is issued.

(9) Where the Secretary of State receives an application made in accordance with this regulation and he is not satisfied as mentioned in paragraph (5), he shall —

- (a) send the applicant a notice of refusal; and
- (b) return any documents and fee that accompanied the application to the applicant.

(10) Where the Secretary of State sends a registration certificate or notice of refusal to an applicant under this regulation he shall, at the same time, send a copy of the certificate or notice to the employer concerned at the address specified in the application for that employer.

(11) Certificates and notices, and copies of these documents, sent under this regulation shall be sent by post.

Restriction on employers of relevant accession State workers requiring registration

9.—(1) Subject to paragraph (2), if an employer employs an accession State worker requiring registration during a period in which the employer is not an authorised employer in relation to that worker, the employer shall be guilty of an offence.

(2) Subject to paragraph (4), in proceedings under this regulation it shall be a defence to prove that —

- (a) there was produced to the employer during the one month period beginning on the date on which the worker began working for the employer a document that appeared to him to establish that the worker was not an accession State worker requiring registration; and
- (b) the employer took and retained a copy of that document.

(3) Subject to paragraph (4), in proceedings under this regulation it shall be a defence to prove that —

- (a) there was produced to the employer during the one month period beginning on the date on which the worker began working for the employer a document that appeared to him to establish that the worker had applied for a registration certificate in accordance with regulation 8 authorising the worker to work for that employer;
- (b) the employer took and retained a copy of that document; and
- (c) the employer has not received a copy of a registration certificate or notice of refusal in relation to that application.

(4) The defence afforded by paragraph (2) or (3) shall not be available in any case where the employer knew that his employment of the worker would constitute an offence under this regulation.

(5) A person guilty of an offence under this regulation shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(6) Where an offence under this regulation committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of —

- (a) any director, manager, secretary or other similar officer of the body corporate; or
- (b) any person purporting to act in such a capacity,

he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, paragraph (6) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(8) Where an offence under this regulation is committed by a partnership (other than a limited partnership) each partner shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(9) Paragraph (6) shall have effect in relation to a limited partnership as if —

- (a) a reference to a body corporate were a reference to a limited partnership; and
- (b) a reference to an officer of the body corporate were a reference to a partner.

(10) Section 28(1) of the 1971 Act (extended time limit for prosecution) shall apply in relation to an offence under this regulation.

(11) An offence under this regulation shall be treated as —

- (a) a relevant offence for the purpose of sections 28B and 28D of that Act⁽²⁾ (search, entry and arrest); and
- (b) an offence under Part III of that Act (criminal proceedings) for the purposes of sections 28E, 28G and 28H⁽³⁾(search after arrest).

(2) Sections 28B was inserted by section 129 of the Immigration and Asylum Act 1999(c. 33) and 28D was inserted by section 131 of that Act; both sections have been amended by sections 144 and 150 of the Nationality, Immigration and Asylum Act 2002(c. 41).

(3) Sections 28E, 28G and 28H were inserted by sections 132, 134 and 135 of the Immigration and Asylum Act 1999 respectively.