

Prevention of Illegal Working

Version 1
1 July 1998

1. Introduction

In order to ensure that employers consider applicants eligibility to work in the United Kingdom, a new criminal offence has been created in the Asylum and Immigration Act 1996. Certain actions are required by the Council and those involved in the recruitment process.

2. Further Information

Under Section 8 of the above Act, the new offence takes effect in relation to employees, who commenced after the 26th January, 1997 and means that an employer would be guilty of a criminal offence if they employ someone who does not have permission to be in or to work in the United Kingdom.

The Act provides a defence for employers in that they must make sure before a person starts work that:

- they have seen a document which appears to be one of those acceptable to the government and appears to relate to the person concerned and that
- they retain the document, or make a copy, and record it.

The defence is not available where it can be shown that the employer knew when the person started work that the employment would constitute an offence under Section 8.

Employers would normally choose to rely on documented national insurance numbers where they are available but other confirmation would for example include a birth certificate issued in the United Kingdom or the Republic of Ireland; a passport or national identity card issued by a state which is party to the European Economic Area Agreement and which describes the holder as a national of that state; or a certificate of registration or nationalisation as a British Citizen.

To avoid any charges of discrimination, relevant documentation will be asked from the person chosen to fill the vacancy.

Procedures exist to ensure that relevant checks on all staff being recruited to the Council will be made, which involve least inconvenience to them but which ensure that the Council complies with the Act.

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