



Briefing Employment

Construction Confederation

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Bulgarian and Romanian nationals post accession to the EU 1 January 2007

The Government has announced that it will provide workers from Bulgaria and Romania with gradual access to the United Kingdom's labour market post-Accession. In order to do so, the Government has introduced secondary legislation that will place restrictions on access to the UK Labour market for nationals from those countries.

From 1st January 2007, as European Economic Area (EEA) nationals, Bulgarians and Romanians will be able to move and reside freely in the UK. They will not require leave to enter or remain to reside legally in the UK.

They will have a right of residence in any Member State for their first 3 months of residence on an unrestricted basis and remain legally resident in that state as long as they wish if exercising a treaty right as a student, a self-employed person, or if not economically active and self-sufficient. But they will not have a right to reside as a worker.

Bulgarian and Romanian Nationals wanting to work in the UK will still need to obtain permission to work before starting any employment.

Full details on how to apply will be posted on Home Office website (www.homeoffice.gov.uk).

■ Worker Authorisation Scheme

The UK Government has laid legislation that requires workers from Bulgaria and Romania, except where they are exempt from the requirement, to obtain a work

authorisation document before they commence employment in the UK, from 1 January 2007.

Those qualifying for such a document will generally be those skilled workers who meet the criteria for the issue of a work permit under the existing work permit arrangements.

However, work authorisation documents will also be issued to lower skilled workers coming to undertake seasonal agricultural work and employment in the food-processing sector. Existing schemes for lower skilled work in these sectors have been moved to being restricted to workers from Bulgaria and Romania.

■ Working without permission

It will be an offence for an employer to employ a Bulgarian and/or Romanian national who is subject to the requirement to hold a work authorisation document but does not have one, or who is undertaking work other than that specified in the document. **On summary conviction, an employer shall be liable to a fine not exceeding level 5 on the standard scale (currently £5,000) per illegal worker found to be in his employment.**

The individual will also commit an offence in these circumstances. Legislation now provides for prosecution of this offence, but also a waiver of prosecution if the individual agrees to the payment of a fixed penalty fine of £1,000

Bulgarian and Romanian Accession

Post Accession Q&A

■ What is accession?

Accession is the term used when a Country joins the European Union (EU). Bulgaria and Romania accede to the EU on 1 January 2007.

■ What is going to change?

When Bulgaria and Romania became part of the EU, they also become European Economic Area (EEA) countries. EEA countries have agreed to be an area of free movement. This means people from these countries are not subject to immigration controls in the UK and no visas will be required to come to the UK. Bulgarian and Romanian nationals will go through the same controls as British citizens when entering and can enter on proving their nationality. Their passports are not stamped.

■ What is not going to change?

Romanian and Bulgarian nationals will still need permission from the Home Office to take up work. They are not being given a right to work in the UK automatically.

■ Why is this different to the previous EU accession in 2004?

In 2004 workers from new member states obtained full access to the UK labour market. This is not the case on this occasion. The government is still looking closely into the impact of 2004 Accession, and until this has been fully considered the government is adopting a gradual approach on labour market access to minimise any further impact.

■ How long will these arrangements last?

The Accession treaty allows the UK to maintain controls on access to its labour market for up to seven years. The arrangements will be reviewed on a regular basis. It is probable initial arrangements will be reviewed after a year.

■ Coming to UK and getting documents

Following accession, Bulgarians and Romanians will not need a visa to come to the United Kingdom.

■ Do Bulgarians and Romanians need a document confirming status?

This will depend on what they are doing and if they want to work. If they want to work they must get a worker accession card or a registration certificate that provides access to the labour market. They do not need a document if they don't want to work in the UK.

■ Can Bulgarian and Romanian national be self-employed in UK following accession?

They have a right of establishment under EU law. This will allow them to be self-employed. This means that they will be able to obtain a CIS4 certificate from HM Revenue & Customs. However, employers should be aware that if they employ Bulgarians and/or Romanians on this basis and they are subsequently found not to be genuinely self-employed then the authorities will regard them as illegal workers and the employer and employee will be subject to the penalties detailed in this briefing.

■ Students

Bulgarian and Romanian students will have a right to come to the UK and reside here as a student if engaged in a full-time course of study following accession. They do not need Home Office permission to be a student.

■ Students can work up to 20 hours per week.

In order to work up to 20 hours per week the student must first obtain a registration certificate. This will confirm the UK accepts the student as an EEA national exercising a treaty right as a student and will provide permission to work for up to 20 hours a week.

■ How can a Bulgarian or Romanian get permission to work?

An employer will either need to obtain a work permit and if this is approved the individual can obtain a worker authorisation document; or, in certain circumstances, the individual will be able to apply for the worker authorisation document for a specific job without a work permit. Details of how to apply for a worker authorisation document will be posted on the Home Office website. (www.homeoffice.gov.uk).

■ Community rights as a worker

Anybody who has been legally employed on a continuous basis for twelve months obtains community rights as a worker. This means they have a full right to reside in the UK under EU law as a worker and have an unrestricted right of access to the UK's labour market.

■ My Bulgarian/Romanian employee has been here on a work permit for the past two years. Do I need to do anything?

No, as long as they continue in their current job, they and you need do nothing. The Bulgarian/Romanian national may seek a registration certificate confirming unrestricted right to access the UK labour market if they wish as they will have been legally employed for more than 12 months.

Further information may be obtained from the Construction Confederation Industrial Relations Department on 020 7227 4522

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