

A2- the Accession of Bulgaria and Romania to the EU

Background

On 1st January 2007, Bulgaria and Romania joined the EU. As European Economic Area (EEA) nationals, Bulgarians and Romanians are able to move and reside freely in any Member State. They do not require leave to enter or remain to reside legally in the UK. However, they do not have an automatic right to work here.

Most Bulgarian and Romanian nationals coming to work in the UK are required to obtain an accession worker card unless:

- They are exempt from doing so by, for example, having leave as a highly skilled migrant or qualifying for a registration certificate;
- They hold a valid SAWS work card; or
- They hold valid leave which restricts their employment to specific types. For example, existing work permit holders or au pairs.

One way of qualifying for an accession worker card is by meeting the criteria set out in the work permit arrangements.

The following **no longer** applies for Romanian and Bulgarian workers:

- UK employers do not need to apply for a multiple entry work permit;
- UK employers are not required to inform us of a Technical Change of Employment;
- An accession worker card will be valid for as long as the worker remains in the employment for which the card has been issued. UK employers do not therefore need to seek an extension of the initial approval under the work permit arrangements;
- There are no restrictions on Bulgarian and Romanian nationals switching from one employment category into another employment category whilst in the UK, or to stay in the UK as a student, a self-employed person or as a self-sufficient person;
- There is no requirement for the Bulgarian or Romanian national to be out of the country at the time of an application.

Once a Bulgarian or Romanian national has been given permission to work and has worked under that permission on a continuous basis for twelve months, they will obtain full movement rights as a worker under EU law. They are then exempt from the requirement to obtain a worker authorisation document. Such individuals can obtain a registration certificate confirming an unrestricted right to access the UK labour market.

How to qualify for an accession worker card via the work permit arrangements

To qualify for an accession worker card via the work permit arrangements, the employer will first need to apply using the appropriate application form (WP1, WP1X, WP3, WP3X, SB1, SR1 and MT11) for a letter of approval, which is an Immigration Employment Document (IED). This will confirm that all of the relevant work permit criteria have been met. A work permit will not be issued, Instead, the employer will be issued with a letter of approval.

Once the employer has been issued with the appropriate letter of approval, they will be required to pass it on to the worker who will then be required to make an application for an accession worker card, which will only be issued for a specific job with a specific employer.

Action by Business teams

All work permit applications for Bulgarian and Romanian nationals should be pre-sifted, input and caseworked as normal. Applications should only be approved if all the relevant criteria have been met.

Caseworkers should note that the approval letter will not limit the approval to any particular period and they should not add any such details to it.

For information on how the accession of Bulgaria and Romania to the EU affects other immigration categories, please see the Border and Immigration Agency website at www.bia.homeoffice.gov.uk.
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gLOBE

For all out-of-country approvals for Bulgarian and Romanian nationals, the permit issue date should be given a forward print date set at 20/12/2012. This is to stop a work permit being printed, as neither the employer nor the individual requires a permit as documentation. A letter of approval should be sent instead.

For out-of-country Bulgarian or Romanian applications

- The length of approval should always be entered as a permit length in months (appropriate to the period length the employer has requested)
- Then enter 20/12/2012 in the Permit Print Date box on the confirmation of decision screen.

This will ensure that the case is closed but the permit is not printed.

A date should not be entered in the Permit Expiry field.

Casework comments should be completed as normal and period of approval recorded.

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Letters

Letter L770 should be created for all approvals for Bulgarian and Romanian nationals.

For any refusals of work permit applications for Bulgarian and Romanian nationals, caseworkers should use the normal refusal letter and appropriate refusal paragraphs but include paragraph P85L.

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What to do if?

The application is for a multiple entry work permit – In such circumstances, the application should be caseworked as normal but, if approved, the permit issue date should be set at **20/12/2012** as outlined above and letter L770 be created.

The application is for less than 12 months employment – The application should be caseworked as normal and, if approvable, letter L770 created.

The extension application relates to an original permission given before 1 January 2007 – If the person has been working for the same employer on a continuous basis for twelve months or more, they no longer need permission to continue to work, even if part of that period was before accession. Instead, they should apply for a registration certificate. Caseworkers should therefore create letter L110 for such applications. If the employer chooses not to withdraw the application, caseworkers may process the application as normal and, if approvable, letter L770 be created.

If the person has been working for the applicant for less than twelve months, the application should be caseworked as normal and, if approvable, letter L770 be created.

The application is for a change of employment - If the person has been working for their previous employer on a continuous basis for twelve months or more, they no longer need permission to continue to work. Instead, they should apply for a registration certificate. Caseworkers should create letter L110 for such applications. If they do not qualify for a registration certificate or the employer doesn't want to withdraw it, the application should be caseworked as normal and, if approvable, letter L770 created.

The application is for a technical change of employment – You should inform the employer that they are no longer required to inform us of any technical changes of employment for Bulgarian and Romanian nationals.

The Bulgarian or Romanian national changes employment before they have completed 12 months continuous employment with that employer – The application should be caseworked as normal and, if approvable, letter L770 be created.

A NPEE form is received for a Bulgarian or Romanian national – Its receipt should be noted on gLOBE and then it should be passed to the team dealing with applications for accession worker cards.

A work permit application is made for someone who has previously held a TWES work permit – If the overseas national has not been overseas for the required period, the application should be refused. Paragraphs P85L and P85I should be included in the refusal letter.

A request for a reprint is received for a Bulgarian or Romanian national – If a work permit was issued within the 6 months prior to the request being made, letter L701 should now be created. If a letter of approval was issued within the 6 months prior to the request being made, letter L770 should now be created.

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