



WORK PERMITS

STUDENT INTERNSHIPS

(BULGARIAN AND ROMANIAN NATIONALS ONLY)

Guidance for Employers

From 03 August 2009

This guidance note provides information on the criteria of the student internship work permit arrangements for Romanian and Bulgarian nationals and advice on how to make an application. They are updated regularly, therefore, please read them before filling in the application form. This supersedes all previously issued guidance. For the purpose of these guidance notes, the terms 'we', 'us' and 'our' refer to the UK Border Agency.

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Section 1 – The Criteria

Overview

1. This guidance note is for employers who need to apply for permission for Bulgarian and Romanian students on first or higher degree courses overseas to undertake an internship.
2. If an application made under the student internship work permit arrangements is approved, we will issue a letter of approval. This, on its own, does not give permission for a Bulgarian or Romanian national to work in the UK. To obtain authorisation the Bulgarian or Romanian national should, on receipt of the letter of approval, complete an application for an accession worker card on form BR3 and submit both to the UK Border Agency. Only on receipt of the Accession worker card can the person commence work with an employer. Form BR3 can be found on the UK Border Agency website and details of the accession state worker authorisation scheme can be found in the [guidance for Bulgarian and Romanian nationals](#).

What criteria apply?

3. You can make a work permit application if you are a UK based employer and you wish to make a work permit application to employ a named person to undertake a specific internship with you, normally on a full time basis. The internee cannot use the letter of approval to take a different job or to work for a different employer.
4. The person must be a student at a college or university overseas. You must provide a copy of a letter from the university or college to confirm where the person is currently studying overseas.
5. We will only approve internships with companies or organisations that have a significant trading presence in the UK and in another country/countries.
6. Approval will be given for a maximum of three months.
7. A student will only be given permission for one internship with an employer.
8. Payment should reflect the normal trainee rates applicable to the profession or sector in which the internship is offered.
9. The internship programme should be at least National/Scottish Vocational Qualification (N/SVQ) level 3 or above.
10. You should be considering recruiting the student, normally as a trainee, following completion

of their course. Approval of any further employment in the UK will be conditional upon immigration requirements and relevant work permit criteria being met.

The Employer

Establishing your company

11. If you have not applied for a work permit in the past five years you should send as much recent information as possible to establish that you are a UK-based employer, and that you are capable of offering a genuine vacancy. In all cases, other than for exempted employers¹, you must send:

(a) evidence of registration with HM Revenue & Customs to pay PAYE and National Insurance. New employers need to send a copy of their NESI 8. Established employers need to provide either their P35 or a copy of their HM Revenue and Customs internet account book,

(b) a copy of your current Certificate of Employers Liability Insurance (this requirement does not apply to employers based in Northern Ireland).

12. We may also need to see other documents including, where appropriate, those required by regulatory authorities or by UK legislation. You should send as many of these as possible. These include:

- VAT returns,
- most recent company accounts, audited if possible.
- a copy of the landlord's signed lease of premises, or rental or purchase agreement
- company incorporation, fire, or food hygiene certificates or other registration or licensing documents,
- utility bills,
- business plans,
- balance sheets,
- contracts detailing your business, for IT and hotel and catering establishments, floor plans.
- Evidence that you have been actively operating or trading for at least 3 years.

This is not an exhaustive list and we may need to ask for further information that will support your application.

¹ Government Departments, Government Agencies, official public bodies, such as the BBC or ITC, Local Authorities, Grant Maintained Schools, Nationalised Industries, Health Authorities, NHS Trusts, State funded universities, colleges and research centres, but not private ones (unless nationally recognised), and, long established, well-known companies and organisations, such as British Petroleum or Oxfam.

13. The UK Border Agency reserves the right to contact other authorities in order to verify the evidence received or to obtain any other information we consider necessary in order to consider your application. Where unsatisfactory evidence is provided the application may be refused. Where insufficient evidence is provided the application may be limited or refused.

14. Any photographs/documents received with the original application and returned to you may need to be re-submitted in the event of a further application.

Conditions of employment

15. The gross pay and other conditions provided to the person should be at least equal to those normally given to a 'resident worker' undertaking similar training or work experience.

16. All employees of UK based companies, regardless of whether they are paid overseas or in the UK, must be paid the National Minimum Wage (NMW).

a) When considering if NMW is met, all the accommodation allowance can be added to salary providing it is totally disposable, non-deductible and guaranteed to the overseas national (i.e. they are free to do with it as they wish).

b) Where the accommodation allowance is deductible or is not disposable or not guaranteed to the overseas national (e.g. a hotel is provided for them or a house is provided with rent paid) then only a maximum sum determined by the Department for Business, Innovation and Skills (BIS) can be added to the salary when considering if NMW is met. For further information on NMW you can telephone BIS on 0845 6000 678 or visit the [BIS website](#).

17. Provided NMW is met, all allowances will be considered in assessing the overall salary package against the going rate. Allowances must be guaranteed to the individual and where appropriate, similar to those normally paid to resident workers doing similar work.

18. In addition:

(a) The employment must meet the Working Time Regulations (WTR). For further information on WTR you can telephone the Advisory, Conciliation and Arbitration Service (ACAS) on 08457 474747 or visit the [BIS website](#).

(b) You, the UK-based employer, will be expected to operate PAYE and class 1

National Insurance (NI) Contributions. See paragraph 77 of the General Information leaflet for information on NI contributions or tax.

(c) Payments made via an overseas service company or a third party whose main involvement with the worker is to hire the worker's services to others will not normally be appropriate because we expect there to be a direct contract of employment between the person and their employer, a company based in this country.

(d) In cases where the worker is to be employed under the terms and conditions of their overseas branch, it is your responsibility as the employee's UK based employer to ensure that you have checked with HM Revenue & Customs that arrangements for the deduction of the worker's Tax and National Insurance are in place.

(e) The employment must also comply with any necessary requirements for registration or licensing.

(f) Deductions from the gross salary should be equivalent to those applied to resident workers. Only annual disposable and guaranteed allowances can be taken into account when considered as part of a gross allowance package.

Work for which we do not issue letters of approval

19. We will not issue a letter of approval if the service that you, the employer, provide to a client is for the supply of personnel only. Consequently, we do not issue letters of approval to recruitment or employment agencies and similar types of business where they are employing a person solely to provide the person's services to one or more clients under a contract. This restriction also applies when the employment would be supplementary to the job for which the work permit has been issued (see paragraphs 20 - 21).

Supplementary employment

20. A person who has a letter of approval and wishes to take work additional to that for which the letter was issued may do so without further permission from this department provided the work:

- is outside of their normal working hours;
- is no more than 20 hours per week;
- is in the same profession and at the same professional level for which the holder's letter of approval was issued; and
- is not employed by a recruitment agency,

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employment agency or similar business to provide personnel to a client (see paragraph 19).

21. The migrant worker is not allowed to enter self-employment, set-up a business or join another business as a director or partner without obtaining further permission from us.

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Section 2 – Making an application

How and when do I apply?

22. Please use form WPSI when applying for a Student Internship letter of approval.

23. You should attach a copy of the internship programme to the application if you have not previously sent us one.

24. A separate form should be completed for each student.

Please note: We reserve the right to check documentation that you supply with your application and if necessary verify the details provided. Submission of false or forged documents, or other misleading information, may result in refusal of applications.

How much does a letter of approval cost?

25. There is no fee for Bulgarian and Romanian nationals

Where can I get a work permit application form?

26. You can download and complete all work permit application forms on screen from [the work permit section](#) of our website.

What if I want to use a Representative?

27. If you make an application through a representative/agent who is not part of your business or organisation they must fill in and sign the representative declaration.

28. If you choose to use a representative, you must sign the completed application and verify that all the information on it is correct.

29. Representatives acting on behalf of an employer who are offering advice and services provided in connection with an immigration employment document application will need to be registered with the Office of the Immigration Services Commissioner (OISC), unless they are exempt from the requirement to do so. This is a requirement of Section 84 of the Immigration and Asylum Act 1999. The work permit application form will require representatives to tick the appropriate box indicating whether they are registered or the basis on which they are exempt from the registration requirement (see paragraph 36 for OISC contact information).

30. The UK Border Agency reserves the right to contact the employer directly to verify details of work permit applications.

31. If you are not required to register because you are regulated by a designated legal professional body (as defined by the Immigration and Asylum Act 1999, for example the Law Society); or if you work under the supervision of a registered person; you will need to provide us with supporting evidence. For example the name of the legal professional body and your membership number.

32. Members of a designated legal professional body that are not regulated by them for Immigration purposes (for example some registered foreign lawyers or non-practising barristers) should ensure that they abide by the OISC codes of practice and seek regulation with the OISC if they wish to continue to provide immigration advice or services.

33. Anyone unsure of their status should contact the OISC.

34. Employers dealing with their own staff or prospective staff do not need to register with the OISC.

35. If a representative makes an application on behalf of an employer, and that representative is not permitted to provide advice and immigration services (by section 84 of the Immigration and Asylum Act 1999), the UK Border Agency will inform both the representative and employer of the new requirements of the Act, and send further letters and permits (if applicable) to the employer stated on the application.

36. Queries about OISC requirements should be addressed to:

OISC
5th Floor
Counting House
53, Tooley Street
London SE1 2QN

Tel: 020 7211 1500
Fax: 020 7211 1553
E-mail: info@oisc.gov.uk
Website: www.oisc.gov.uk

Who signs the Declaration?

37. At the end of the WPSI application form, there are two declarations. You must fill in and sign the employer declaration in all cases. Persons who are the subject of a work permit application may not sign the employer's declaration.

38. If your organisation has no UK employee with authority to sign the employer declaration may be signed by a UK registered solicitor, (but not by any

other agent) with a letter of authorisation from the employer.

advice or service under section 84 of the Immigration and Asylum Act 1999 (see paragraph 29).

How do I get advice on making applications?

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39. Further details on employing migrant workers can be found at www.businesslink.gov.uk. The site includes information on how to check staff, an outline of the legal requirements, case studies covering a range of sectors and a series of frequently asked questions.

40. For general enquiries, advice about completing an application form or clarification of these guidance notes please contact our Customer Contact Centre at:

UK Border Agency
Customer Contact Centre
PO Box 3468
Sheffield
S3 8WA

Telephone: 0114 207 4074
Fax: 0114 207 4000
E-mail: accessionenquiries@ukba.gsi.gov.uk

41. Applications are allocated according to team resource. Please do not contact teams for progress checks, as this will hold up the consideration time. If you wish to check the progress of your application please see our on-line guidance on [waiting times](#) or contact the Customer Contact Centre.

42. The team that considers the application will still write out to employers or their representatives direct. If you wish to discuss these letters, please contact the team stated on the correspondence.

Where do I send the work permit application form?

43. Please post your completed application form to:

UK Border Agency
Work Permit (BaRC)
PO Box 3468
Sheffield
S3 8WA

Where will the UK Border Agency send the letter of approval?

44. We will send the letter of approval to the employer named on the application form unless you are using a solicitor or other representative. In these cases we will send the letter to them unless they are not permitted to provide immigration

Section 3 – Verifying applications and Abuse

Verifying Applications

45. We aim to consider your application swiftly. However, we must also be confident that applications meet the work permit criteria, and that the statements and information that employers and representatives provide are a true reflection of what actually happens whilst the migrant worker is in the job concerned.

46. The UK Border Agency reserves the right to verify details. If full contact details are not provided by you or your representative, we may refuse the application.

47. We will ask for a variety of material to support your case during the consideration of your application. In some cases, particularly if your company has not made an application before, or not for some time, we may also visit your company before we make a final judgement on whether to approve your application(s).

48. In some cases, if we have approved your letter of approval, we may also carry out a 'compliance check' to ensure the ongoing validity of the permission.

49. The purpose of the compliance check is to make sure that the information given on the work permit application is a true reflection of the employment being offered. We will check that the:

- information given about the employer is accurate and complete;
- information given about the job and conditions of employment are accurate and complete; and
- employer is able to offer the employment described on the application form.

50. You agree to co-operate with these checks when you sign either the employer or representative declaration page of the work permit application forms.

When do we carry out a compliance check?

51. Checks may happen either at the time you apply for a letter of approval (pre-issue), or once the migrant worker has taken up employment (post-issue).

52. Companies that are subject to a check may have been chosen at random, therefore being the subject of a compliance check does not mean that there is any doubt regarding about the application submitted.

53. We may make these checks at any time during the application process or during the validity of a period of leave.

What happens during a check?

54. The UK Border Agency carry out checks. If we plan to visit we usually, though not always, contact the employer to arrange a mutually convenient time. The compliance officers will then gather material to support the information provided on the application form. We may also wish to speak to migrant workers, colleagues and managers involved in the work permit employment.

55. If we have not yet issued a letter of approval, then we will focus on verifying that the employer is capable of offering the employment specified on the application form. For example, we would check that the employer has suitable premises, has a genuine vacancy, that they have been unable to fill with a resident worker, and holds appropriate licences, etc to offer the employment as specified on the work permit application.

56. If we have already issued a letter of approval, we may make a check by telephone or letter and will ask for material to support the information provided on your application. This is to verify that the information provided on the application form was a full and accurate description of the conditions of employment being undertaken, and that the skills, experience, gross pay and duties of the overseas national are as described on the application form.

57. The compliance officers visiting your premises will have official UK Border Agency identification. If you have any doubts that their presence is bona fide, please contact our Customer Contact Centre on 0114 207 4074 and ask to be put through to the Sponsor Management Unit.

What happens after a check?

58. Where we have carried out a check before a decision has been made on your application, we will report our findings to the team dealing with your application within the UK Border Agency. They will then make the decision on your application using all of the information you provided.

59. The team responsible for making the decision on your application will let you know the outcome. This process will normally be complete within 4 weeks of the date of your application reaching us.

60. Where the UK Border Agency has already issued a letter of approval, we will write to you to let you know the outcome of the visit.

Discrepancies or issues discovered during checks

61. We anticipate that, on many occasions, checks will not reveal any problems. In these cases, we will notify you that we are satisfied that everything is in order.

62. Where there are discrepancies discovered before we have made a decision on your application, we will let you know whether they require further information before making their decision on your application(s).

63. If we find discrepancies on applications where the letter of approval has already been issued and the overseas worker has taken up post, we will work with you to take steps to bring the employment back in line with the work permit arrangements if possible.

64. However, there may be occasions where we find evidence to show that an employer or representative has knowingly deceived us, or where we cannot verify the statements made in the application. In these cases, we have the right to revoke the letters of approval. Where appropriate, we may instigate prosecution of employers (or representatives) under the relevant immigration, or other, legislation.

Allegations of abuse of the work permit arrangements

65. An employer who uses deception to obtain a letter of approval may commit a criminal offence. The UK Border Agency's Intelligence Unit in Sheffield deal with information in respect of abuse of the work permit arrangements, carry out investigations and, if appropriate, inform the relevant authorities of its findings.

66. All work permit applications are confidential between the employer and the UK Border Agency, and information submitted by the employer in support of an application cannot, therefore, be divulged to a third party except to other Government Departments and Agencies and Local Authorities to enable them to carry out their functions.

67. Each allegation of abuse of the work permit arrangements is treated in the strictest confidence. The Intelligence Unit will not be able to advise you of the progress or results of any investigation relating to this information. This is for the following reasons:

- The Data Protection Act (1998) - the provisions of this Act means we cannot disclose information we hold on an individual to a third party unless requested

to do so by, or with the written consent of, the party concerned.

- The UK Border Agency's Code of Practice - all investigations are pursued in compliance with the Data Protection Act (1998), the Human Rights Act (1998) and the Regulation of Investigatory Powers Act (2000). This prevents us giving feedback to people who provide information which lead to investigations, and if we were to breach this, it could compromise the success of any prosecution of an identified offender.
- Potential damage to ongoing investigations - the potential damage that disclosure might have on any investigation conducted by us or other government agencies

68. If you have information about abuse of the work permit arrangements, you can contact the Intelligence Unit at:

UK Border Agency
Intelligence Unit
PO Box 3468
Sheffield
S3 8WA

Tel: 0114 279 3480

Fax: 0114 279 3482

E-mail: workabuse@homeoffice.gsi.gov.uk

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Section 4 - Immigration

Immigration Clearance

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

70. Bulgarian and Romanian nationals wanting to work in the UK will still need to obtain authorisation to work before starting any employment. Should the UK Border Agency approve your student internship application, a letter of approval will be issued. This approval letter, on its own, does not constitute full authorisation to work in the UK for a Bulgarian or Romanian national. To obtain full authorisation the Bulgarian and Romanian national must, upon receipt of the letter of approval, apply for an accession worker card. To apply, the Bulgarian and Romanian national should complete the form [BR3](#) and submit the approval letter issued by the UK Border Agency with their application form. For further information see the '[Guidance for Nationals of Bulgaria and Romania.](#)' Only on receipt of the accession worker card can the person commence work with an employer.

Please note, a Bulgarian or Romanian national who has been given permission to work and has worked under that permission on a continuous basis for twelve months, 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. Details of how to apply for a registration certificate are available in the [guidance for Bulgarian and Romanian nationals](#).

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Section 5 – Frequently Asked Questions

What if the person does not take up the post or the employment ends prematurely?

71. It is important that the UK Border Agency is notified at once if the person does not take up the post or if the employment of a migrant worker ends prematurely, whether the employee leaves voluntarily or is made redundant. The UK Border Agency should also be informed if your company ceases to trade while you still have migrant workers in your employ.

72. You should inform us by completing the “Notification of Premature End of Employment” form. The completed form is to be sent to the team who dealt with your original application. See paragraph 26 for details on how to obtain the form. If possible, you should also return the letter of approval.

In what circumstances can I request a reprint of a letter of approval?

Requesting reprints of letter of approval issued less than six months ago.

73. We will reprint letters of approval in the following circumstances:

To correct errors and omissions

74. You, the employer, or your representative may request reprints of letters of approval from us to correct errors such as spelling mistakes or incorrect details such as mistyped passport numbers or dates of birth. Requests should be made in writing within one month of receipt of your letter. Reprints will be free of charge once your written request is received, accompanied by the original letter of approval. If the original is not returned or is returned over one month from when you received your letter then your request will be refused and a fresh application will be required.

- Please note, however, that if you request a reprint to change a detail on the letter of approval that was central to the consideration of the original application your request will be refused where that request was made based upon your error or omission. By ‘central’ we mean, for example, if the job title was wrong, or the address at which the person works, or the salary offered differs from that stated in the original application. You will be required to submit a fresh application.

To replace a lost letter of approval

75. You may request a reprint of a letter lost in transit (includes lost overseas) that has been used to apply for your accession worker card. Requests should be made in writing or by fax to the original team who made the decision. If the original letter is subsequently found, it should be returned, as the reprinted letter supersedes it.

What if I do not agree with the decision on my application?

76. The decision letter we send to you will explain the result of our consideration of your application. If we cannot approve your application the letter will explain why, and if appropriate give details of how to request reconsideration of the decision.

77. If our letter informs you that the information did not meet our criteria, and you wish to re-apply with further information, please complete a WPSI form. You should include further evidence to support your application including, but not restricted to, the issues raised in our letter.

78. If you think that the decision based on the information sent in with your original application was an error, and you wish us to reconsider your previous application, please write a letter to the following address:

UK Border Agency
Work Permits (BaRC)
PO Box 3468
Sheffield
S3 8WA

79. You should write within 28 days of the date of original decision letter and explain why you believe that the decision was wrong, with reference to the guidance notes, and make it clear that you are requesting a review of the decision on your previous application.

80. The grounds of refusal will be considered in respect of your initial application and a full review of all other elements of the decision will be undertaken.

81. Before making a decision we may contact the employer/representative for further information to clarify/support the evidence provided with the initial application.

82. Where we identify further grounds for refusal the decision to maintain refusal of an application will stand even when the original ground for refusal has been overturned.

We will only accept two reviews per original application refused. If your initial review is unsuccessful, you will only be able to seek one further review of the original application. Any

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further requests for a review received for the same original application will be returned to you. If you wish to proceed with the application, please complete a new application form.

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