



## Legal Compliance

### Calibre International's Compliance to UK Law

#### Immigration, Asylum and Nationality Act (2006)

Under the Immigration, Asylum and Nationality Act (2006) all employers have a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the

The Act states that employers should keep copies of original, acceptable documents before someone starts working. If a person has a time limit on their stay (for example; student visa's) then employers have an obligation to carry out repeat checks at least once every 12 months. If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then businesses must not employ them in breach of these restrictions.

At Calibre International, we ensure that all necessary checks are completed. All candidates who register with us have their documents checked prior to being sent out on an assignment. Our

Recruitment Consultants are all trained on detecting fraudulent documents, and we have strict guidelines regarding candidates producing the correct immigration documentation.

Below is summary of the documents, which an employer must check to prevent illegal working.

The documents are categorised into two lists, list A documents and list B documents. List A documents show that the holder has an ongoing right to work in the UK.

List A documents: list A documents show that the holder is a British citizen or a citizen of the United Kingdom and Colonies and who have the right of abode in the United Kingdom. List A documents also include documents which show the holder is from the European Economic Area (EEA) countries or Switzerland. However, special controls on access to the UK labour market apply to those from Romania and Bulgaria (please see below for further details). From 1st January 2007, as European Economic Area (EEA) nationals, Bulgarians and Romanians have been able to move and reside freely in any EU Member State. Bulgarian and Romanian nationals wanting to work in the UK will need to obtain authorisation to work before starting employment, unless they are exempt from doing so. The following documents can be provided by Bulgarian and Romanian nationals, to show their eligibility to work in the UK.

- Blue Registration Certificates These certificates indicate that the holder has full access to treaty rights and that their access to the domestic labour market is not restricted.
- Yellow Registration Certificates These certificates indicate that the holder has limited access to

the labour market for Students, self employed or self sufficient persons. This certificate will state the manner in which the holder is exercising a treaty right.

- Purple Work Cards (aka Accession worker cards.) These are issued to those Romanian and Bulgarian nationals seeking employment in one of the categories listed specially on the UKBA website. The documents issued for these categories do not allow the holder to undertake supplementary employment. If approved, a purple work card with a serial number beginning with the letter H is issued.

Employment Agencies and Employment Businesses Regulations (2003) The Conduct of Employment Agencies and Employment Businesses Regulations (2003) govern the conduct of the private recruitment industry and establish a framework of minimum standards that clients, work-seekers and hirers, are entitled to expect. There are various aspects to the regulations which businesses need to follow, however below are a few of the key areas which we will feel would be of value for you to know and understand. Wages: All workers must at least be paid the National Minimum Wage for any work completed.

Furthermore, the regulations state that an employment business must not withhold or threaten to withhold the whole or part of any payment to a temporary work-seeker in respect of any work which they have done on the basis that: (a) the employment business has not received payment from the hirer; (b) the work-seeker has not produced a signed timesheet confirming that they have worked during a particular period of time. The employment business is not prevented from reasonably delaying payment (for a relatively short time) while it makes reasonable inquiries to verify the hours the temporary work-seeker did work. For example by contacting the hirer, interviewing co-workers or checking on site attendance. At Calibre International, we ensure that all our workers are paid on a weekly basis. Any disputes regarding incorrect hours are dealt with both swiftly and efficiently both from our worker and client perspective.

Finding candidates' jobs: Under section 6(1) of the Employment Agencies Act (1973) employment agencies and employment businesses are prohibited from charging work-seekers for finding them work. At Calibre this is strictly adhered to and the work seeker is not subject to any fees for finding or placing them in a suitable position.

Communication: Regulation 14(1)(a) and (b) require that before an employment agency or employment business provides any work finding services to a work-seeker, it must agree with the work-seeker the terms which will apply between it and the work-seeker, including whether the business is an employment agency or an employment business, what type of work will be sought on their behalf and any terms and conditions. The terms and conditions should be given to the work-seeker (ideally in a single document). At Calibre International when a candidate registers with us they receive full terms and conditions and our work-seekers handbook. These clearly set out all the terms and conditions to the work-seekers.

Communication with our clients: Regulation 17(1) states that before the first time an agency or employment business provides services to a hirer, it must agree with the hirer the terms and conditions which apply or will apply between them, including

- A statement in regards to the service provided (employment agency/ employment business).
- Details of any fees which may be payable to the agency (including the amount of the fee or its method of calculation; and the circumstances, if any, in which refunds or rebates are payable to the hirer, the scale of such refunds or rebates and, if none is payable, that fact must be stated in the terms).

- The procedure to be followed if an employment business supplies a work-seeker to a hirer proves unsatisfactory.

Under regulation 17(2), an employment agency or employment business must ensure that all of the terms between it and the hirer are recorded in a single document and that a copy is provided to the hirer as soon as is practicable. In practice all the terms between the agency or the employment business and the hirer should be recorded, when instructions are given. The document will take the form of a set of terms of business or a letter setting out all the terms. Under regulation 17(3), if an employment agency or employment business, and the hirer agree any changes to the terms, the agency or employment business must, as soon as reasonably practicable after the changes have been agreed, give the hirer a new document setting out details of the changes and stating the date that the varied terms take effect. At Calibre

International we ensure that you receive all terms and conditions at the outset, the terms and conditions clearly outline the points raised above and are designed to maximise a successful relationship between our clients and ourselves.

Information to be obtained about a work-seeker: An employment agency or employment business must not introduce or supply a work-seeker to a hirer unless it has obtained the

- The identity of the work-seeker. This means seeing any document which provides evidence of the work-seeker's identity. This is also stated under section 21(1) of the
- That the work-seeker has the experience, training, qualifications and any authorisation which the hirer considers are necessary, or which the worker needs to have by law or by the requirements of any professional body, in order to carry out the work. Copies of documents should be taken at this time.
- That the work-seeker is willing to work in this position. Information to be obtained from a client: Regulation 18 provides employment agencies and employment businesses must not introduce or supply a work-seeker to a hirer unless it has sufficient information from the hirer to select a suitable work-seeker for the position the hirer seeks to fill. The following information should be obtained:-
  - the identity of the hirer
  - the date on which the hirer wants a work-seeker to start work and the duration or likely duration of the work
  - the position (including the type of work the work-seeker would be required to do, the location at which and the hours s/he would be required to work and any risks to health and safety known to the hirer and the steps that have been taken by the hirer to prevent or control such risks.) Essentially under this regulation an agency or employment business must ensure that the hirer has carried out a thorough risk assessment of its site, equipment and working conditions so that sufficient

information can be given to the work-seeker before s/he is either supplied or

introduced to the hirer

- The experience, training, qualifications and any authorisation which the hirer considers are necessary in order for us to fulfill your requirements and to source and place your ideal candidate, we will require a personal specification. This personal specification should detail the attributes you are looking for from the role. We will also require any risk assessments for the position. Once we receive this information, our team of recruitment agent's will source your ideal candidate.

Regulation 21 – Provision of information to work-seekers and hirers: Regulation 21(1)(a) provides that when an employment agency or employment business proposes a work-seeker to a hirer it must give the hirer all the information it has obtained about the work-seeker under the requirements of regulation 19 (namely the work-seeker's identity, experience, training, qualifications and authorisations required and that the work-seeker is willing to do the work in question.) If it is acting as an employment business it must also make clear to the hirer the contractual basis upon which it has engaged the work-seeker i.e. whether the agency or employment business has engaged the work-seeker under a contract for services or employed them under a contract of employment (contract of service) or apprenticeship. Prior to you meeting a candidate, you will receive a summary outlining the details of the candidate. This summary will outline their experience, eligibility to work, training etc.

Our communication with the work-seekers:

Once we have received your requirements and have matched a candidate, we will communicate the following information to the work-seeker

- The minimum rate of pay and any other benefits offered by the hirer and the intervals at which they would be paid.
- The length of notice which a work-seeker would be required to give and entitled to receive, to end the employment with the hirer.

Regulation 28 – Confidentiality Under regulation 28(1) an employment agency or employment business must not disclose any information about a work-seeker without his/her prior consent unless it is a) to provide work finding services for that work-seeker; b) for the purposes of any legal proceedings (including arbitration); or c) in the case of a work-seeker, who is a member of a professional body, the provision of information to that professional body. The only exceptions to this would be where the agency or employment business is allowed under provisions of the Employment Agencies Act, these Regulations or any other piece of legislation dealing with the disclosure of information such as, the Data Protection Act 1998, to disclose confidential information about a work-seeker.

Regulation 28(2) provides that an employment agency must not disclose information relating to a work-seeker to any current employer without the prior consent of the work-seeker. If the work seeker gives consent and then withdraws it, the agency or employment business cannot consider itself to have the work-seeker's prior consent. In addition, it may not make the provision of its services to that work-seeker conditional upon him/her either giving his/her consent or agreeing not to withdraw it once it has been given. At Calibre International, we take this very seriously and maintain to the highest standards in confidentiality. Agency Worker Regulations (2010) Agency workers are classed as "workers" rather than as employees. All workers, including agency workers, are entitled to certain rights, these include:

- Paid annual leave
- Rest breaks and limits on working time
- The National Minimum Wage
- No unlawful deductions from wages
- Discrimination rights under the Equality Act 2010
- Health and safety at work.

The regulations give agency workers the entitlement to the same or no less favourable treatment as comparable employees with respect to basic employment and working conditions, if and when they complete a qualifying period of 12 weeks in a particular job.

Agency workers have the following rights:

From day 1 of their employment, an agency worker will be entitled to:

- The same access to facilities such as staff canteens, childcare and transport as a comparable employee of the hirer
- To be informed about job vacancies After a 12 week qualifying period, an agency worker will be entitled to the same basic conditions of employment as if they had been directly employed by the hirer on day one of the assignment, specifically:
  - Pay - including any fee, bonus, commission, or holiday pay relating to the assignment. It does not include redundancy pay, contractual sick pay, and maternity, paternity or adoption pay
  - Working time rights - for example, including any annual leave above what is required by Agency Workers (regardless of their employment status) will also be entitled to paid time off to attend ante-natal appointments during their working hours.

12-week qualifying period

Breaks between or during an assignment to the same job that are six weeks or more will reset the 12-week qualifying period.

The accrual of 12 weeks qualifying period can be paused by:

- Absences for sickness and jury service (for up to 28 weeks)
- Annual leave, shut downs (e.g. factory closures and school holidays) and industrial action (for the duration of the absence). Pregnancy and maternity-related absences, maternity leave, paternity leave and adoption leave will not pause the 12-week accrual at all - instead the 12-week accrual period will continue throughout the duration of the absence and include these weeks as those counting towards the Comparative Employee: The regulations aim to ensure an agency worker is engaged on the same relevant terms and conditions as a “comparable employee”. In other words, “what terms and conditions would the agency worker have got if they had been directly recruited into the An employee is a ‘comparable employee’ if the following conditions are met.
  - Both employee and agency worker are working for and under the supervision and direction of

the hirer

- Both employee and agency worker are engaged in the same or broadly similar work (this could include an examination of qualification and skills)
- The employee works or is based at the same establishment as the agency worker (the employee can work or be based at a different establishment but only where such an employee cannot be found working or based at the same establishment).

At Calibre International, we will discuss the Agency Worker Regulations (AWR) with you at the beginning. We will discuss how the AWR may affect you and any increments which may need to be implemented after 12 weeks.

#### National Minimum Wage Act (1998)

The National Minimum Wage (NMW) is the minimum pay per hour all workers are entitled to by law. All employers must pay their workers the NMW. At Calibre International, we ensure that all our workers receive the National Minimum Wage.

#### Working Time Regulations (1998)

The working time regulations govern the hours most workers can work, these include:

- limits on an average working week
- statutory entitlement to paid leave for most workers
- limits on the normal hours of night work and regular health assessments
- Special regulations for young workers.

The Regulations apply to workers whether part- or full-time, including of agency workers. The Working Time Regulations determine the maximum weekly working time, pattern of work and holidays, plus the daily and weekly rest periods. They also cover the health and working

In general the Working Time Regulations provide rights to:

- A limit of an average 48 hours a week on the hours a worker can be required to work, though individuals may choose to work longer by “opting out”
- 5.6 weeks’ paid leave a year – this is pro-rotta for part-time workers. The 5.6 weeks also includes bank holidays.
- 11 consecutive hours’ rest in any 24-hour period
- a 20-minute rest break if the working day is longer than six hours
- one day off each week
- A limit on the normal working hours of night workers to an average eight hours in any 24-hour period, and an entitlement for night workers to receive regular health assessments

To ensure that all aspects of the Working Time Regulations are followed, we look at the require-

ments as a joint responsibility, between us as an agency and our clients. We have the opt out agreement as part of our registrations process and we manage all our workers holidays. We then look to our clients to ensure that the working times, breaks and rest period guidelines are followed.

#### Auto- Enrolment

Auto-enrolment is being introduced to help people save for their retirement. It is currently estimated that 7 million people are not saving for their retirement, therefore starting from October 2012, millions of workers have been enrolled into a workplace pension by their employer. The employee, employer and government will all pay into the scheme.

Larger employers are enrolling their workers first and Calibre International's staging date is 1 September 2013. We are expecting to postpone this date by 1 month to 1

Our chosen pension scheme is NEST. NEST is a trust-based, defined contribution pension scheme. It was specifically established to support automatic enrolment. The scheme is not-for-profit and the Trustee has a legal duty to act in its members' best interests. All of our eligible Calibre colleagues will be auto-enrolled onto the NEST pension scheme on our enrolment date.

Inland Revenue and Customs We have regular checks from the Inland Revenue and Customs. Our most recent visit was in March 2013, where our systems were checked to ensure Calibre International was prepared for Real Time Information (RTI). The feedback from the Inland Revenue and Customs was extremely positive, and it was commented that our recruitment processes was of "the highest standard". RTI has now commenced since April 2013 and we are fully compliant.