

Legal Eagle

How to navigate the overseas staff maze

Immigration law specialist **Jenny Harvey**, of Darbys Solicitors, gives her advice on what employers in the equestrian world should do to ensure they don't get caught out, following the latest changes in rules for employing staff from overseas.

The work-permit system has undergone a big shake-up. You now need to be licensed with the Home Office if you want to employ non-European Economic Area nationals on a work permit. It is not too late to apply for a licence, but take care – an application could trigger a visit from the Home Office!

Last year, new penalties were introduced for businesses employing overseas migrants not entitled to be here or to work in the UK. The Home Office will check that all your employees are working legally and ask to see your records. Your recruitment procedures are very important and you can avoid a penalty if you follow these three steps before taking on any new employee...

STEP 1 You need to obtain a document or documents from one of two lists. (See Home Office website: www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/currentguidanceandcodes/comprehensiveguidancefeb2008 for details of the lists). List A consists of documents that will be shown to you by prospective employees who have no restrictions on being in the UK, such as British nationals or people granted indefinite leave to remain. List B documents will be shown to you by people with limited leave to be here – perhaps a student who has been granted a student visa or the family member of a European national who has been given a Residence Card.

STEP 2 You need to check the validity of the document or documents and satisfy yourself that the prospective employee is the person named in the documentation. You should check any photographs and date of birth, as well as relevant stamps to ensure that the person can do the type of work on offer. You must satisfy yourself that the documentation is genuine and has not been tampered with – and repeat these checks every 12 months if the documents shown are from List B.

STEP 3 You need to copy the documentation in a format that cannot later be altered – a photocopy or scan, for example. You should keep the copies while the employee continues to work for you and for two years after he or she leaves.

But watch out! You can still be prosecuted under criminal law – and face up to two years in prison – if you employ someone knowing that they should not be in the country or doing the work in question. The three steps above will not provide a defence against criminal prosecution.

Also, fines under race relations legislation are unlimited. It's vital that all prospective employees are treated equally at every stage of your recruitment procedure. If you check the documents only of applicants with a non-British-sounding name, for example, you could be accused of discriminating against them.

One of the largest law firms in Oxfordshire, Darbys Solicitors consists of 12 specialist sectors. For detailed advice and help with your recruitment procedures, contact Jenny Harvey, email jharvey@darbys.co.uk, or Shamin Kashem, email skashem@darbys.co.uk, or telephone 01865 811700.



County Court Judgments from England and Wales and the Scottish version, which are called Court Decrees.

The judgments listed are those recorded by the Registry Trust Ltd and appear to be of a commercial nature. Judgments/Decrees can be for damages rather than debts, and their listing here does not imply an inability to pay.

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WRENS HORSEBOXES, WRENS STUD, DOWN STREET, PILTDOWN, UCKFIELD TN22 3XY £222

MS HELEN FRANKLAND T/A NELLIES EQUESTRIAN, 119 REDRUTH DRIVE, CARNFORTH LA5 9TT £433

MISS JODY ROEBUCK T/A A & J ANIMAL FEEDS, WOODEND MILL, MANCHESTER ROAD, MOSSLEY, ASHTON UNDER LYNE OL5 9AT £5,557

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EQUETRUX (UK)LTD 5A HIGHDOWN INDUS. ESTATE, RHODES STREET, CASTLEFORD WF10 5LN £698

PANAMA EQUINE HYDROTHERAPY LTD, GISBURN PARK STABLES, GISBURN, CLITHEROE, LANCS BB7 4HU £1,675

MR STUART RAINE T/A EQUESTRIAN BUILDING SOLUTIONS, 35 CLAYHILL CLOSE, WALTHAM CHASE, SOUTHAMPTON SO32 2TT £165

KATIE WILLIAMS T/A LOW FOLD FARM EQUESTRIAN CENTRE, LOW FOLD FARM, SUNNYBROW, CROOK, COUNTY DURHAM DL15 0RL £757

EQUINOSH, LONG CHIMNEYS FARM, DARLEY MOOR, ASHBOURNE, DERBYSHIRE DE6 2ET £495

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MS TRACEY FERNANDES T/A NENE VALEY EVENT MEDICAL SERVICES, UNIT 9, WHARF ROAD IND. EST. WHARF ROAD, PETERBOROUGH PE2 9PS £233

MS KATHERINE MILLS T/A EQUIMALL, BLOOM FIELD STUD, SCHOOL ROAD, TERRINGTON ST JOHN, WISBECH, PETERBOROUGH PE14 7SQ £629

LARKHALL EQUESTRIAN, 2 BEAUFORT PLACE, BATH, AVON BA1 8TX £653