

A8: Your rights in the UK

Rada's story:



Back in her hometown in Slovakia Rada had heard a lot of talk about her country joining the European Union. Everyone said that there would be great opportunities for people who were willing to work hard. So Rada sorted out a place to stay temporarily through a friend of a friend, and made the move to London.

On her first morning in a new city she was apprehensive, but determined to get a job. She thought that with the money she earned she could save a little, send some money

home, and at the same time sample life in a different country. 'I was unemployed back home and didn't have much work experience, so I decided to try and get a job as a waitress,' Rada says, 'I went around all the local restaurants asking if they had any vacancies'. Eventually one of the restaurants Rada tried offered to take her on. 'I couldn't believe my luck!' Rada tells us, 'My first day in London and already I had a job.'

But Rada wasn't as lucky as she first thought. Her employer made her work ten hour shifts, seven days a week and only paid her £2 per hour. 'It was exhausting work. If I tried to ask for time off, my boss made it clear that there were plenty of other people who would be glad to take my place. All my pay went on rent and food, and the only thing I got to see was the inside of that restaurant.'



This leaflet is for people from eight of the ten countries who became part of the European Union in May 2004. These countries are known as the accession countries (often abbreviated to A8):

- Czech Republic
- Hungary
- Lithuania
- Slovakia
- Estonia
- Latvia
- Poland
- Slovenia

We explain your rights to live and work in the UK, and offer advice on some of the problems you might encounter.

There are different rules for people from other parts of the European Economic Area including the other two new countries Cyprus and Malta. See our leaflet 'EEA: Your rights in the UK'.

If you were living and working in the UK before May 2004 and you need advice contact a local advice agency.

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What Rada should have known

Rada shouldn't have had to put up with the treatment she got from her boss. There are rules about how long you can work for, how much you get paid and when you get holiday and sick pay. Not only was Rada missing out on her rights, she was also working illegally. As an A8 national who arrived here after May 2004 Rada has to register with the Workers Registration Scheme (WRS) – see page 3. If you're not registered both you and your boss are breaking the law, and your boss can be fined up to £5,000.



Living in the UK

If you are an A8 national, you have the same rights as all EEA nationals to come to the UK and stay here for three months. If you have family members who are not EEA nationals, they can also come but may need a visa. For more information see www.ukvisas.gov.uk

If you are an A8 national you are also an EEA national, but have fewer rights than other EEA nationals during your first 12 months of work in the UK.

You can stay for longer than three months if:

- you are a worker – see 'Working in the UK' on page 3; or
- you are self-employed or have set up a business. You have to follow the same rules as British people and you can get all the benefits which British people who are self-employed or in business can get;

but if you are:

- a student; or
- a pensioner; or
- you just want to be here

you have to have enough money to support yourself during your stay in the UK. This is known as being 'self-sufficient'. (Sometimes you can get financial help temporarily – see page 6.)

Documents

If you are entitled to stay in the UK you can apply for a Registration Certificate to prove it. You don't have to get one but it may be worth your while as it shows that you're entitled to the same rights and benefits as British nationals. You can get a certificate if you can prove that you are:

- self-employed; or
- self-sufficient; or
- are working legally in the UK (The Home Office says that you must have been working legally for 12 months, but some experts think this time limit is illegal, and it may change.)

Apply using form EEA1. You can download it from the Home Office website (www.ind.homeoffice.gov.uk/6353/11406/formeea1.pdf) or call 0870 241 0645. The Home Office has to issue the certificate immediately.

If someone in your family is not an EEA national they have to apply for a Residence Card to prove that they have the right to stay in the UK with you. They can only get a Residence Card if you are entitled to a Registration Certificate. Apply using form EEA2 which you can download from: www.ind.homeoffice.gov.uk/6353/11406/formeea2.pdf. The Home Office will give you a certificate to prove that you've applied for the Residence Card. They have to issue the card itself no later than six months after the application has been made.

Tip! Always use the Post Office's Recorded Delivery service if you're sending documents to the Home Office and always keep a copy of anything you send.

Working in the UK

Workers Registration Scheme (WRS)

If you are an A8 national who was not already working legally before May 2004 and you want to work in the UK you will need to register on the Workers Registration Scheme (WRS). You can't register until you have actually found a job.

You do this by filling in form WRS which you can get from the Workers Registration Team at the Home Office. You can download this from the Home Office website: www.workingintheuk.gov.uk/working_in_the_uk/en/documents/all_forms.html

You also need to send:

- two passport photographs;
- your passport or ID card;
- payment (£70 at May 2006); and
- a letter from your employer stating when you started working for them.

You must apply within one month of starting work.

If you change jobs within the first twelve months you have to fill in another WRS form, but you won't have to pay another fee. Once you have been working legally for twelve months you won't need to be on the WRS any more. You can then apply for a Registration Certificate – see page 2 – giving you the same rights and benefits as British workers.

Tip! To apply for a Registration Certificate you'll need to prove that you've been working legally for twelve months so remember to keep all your pay slips, or a contract of employment.

Stefan got a job working on a building site. It was hard physical work but he didn't mind it; his mates on the site were from all over Europe and they had a good laugh. Every now and then Stefan would ask his boss, Liam, if he could have a letter confirming when he started work, so that he could go on the Workers Registration Scheme. Liam was a good bloke, and had taken him on, even though he had no experience. But Liam just kept saying he would write the letter next week...

Cash in hand

When your income reaches a certain level you have to pay tax and National Insurance. The government uses this to pay for public services like the NHS and benefits. It is normally taken from your wages by your employer. If your employer pays you without making the deductions this is known as being paid 'cash in hand' and is illegal. If HM Revenue and Customs find out both you and your employer could be prosecuted and made to pay back the contributions you should have made.

Sometimes employers are reluctant to give you a letter proving that they employ you. This might be because they think they don't have to give you rights to things like holiday or sick pay if you are working 'cash in hand'. They keep putting off writing the letter, and before you know it a month has gone by and you are working illegally. Like Stefan and Rada you are missing out on employment rights and not building up time towards the year of residence you need to get off the Workers Registration Scheme.

But you don't have to put up with this because your boss is also acting illegally in employing you. You could go and get a job where you are legally employed. Or if you want

to stay where you are you can contact the Worker Registration Team anyway, and they will do their best to process your application without the letter from your boss. They may pass your employer's details to their fraud team, and they could be fined up to £5,000.

Think carefully about how safe you feel before reporting your boss. You can get free confidential advice about any kind of wrongdoing at work by phoning Public Concern at Work on 020 7404 6609, or visit their website: www.pcaaw.co.uk.

For more information on the Worker Registration Scheme see leaflet 'Rights and responsibilities of nationals from the new member states from 1 May 2004' which is available from the Home Office at www.ind.homeoffice.gov.uk You can find contact details for the Workers Registration Team on page 6.



Possible problems

National Insurance (NI) numbers

Your NI number is issued to you by the Department for Work and Pensions (DWP). Your NI number is unique to you and is used to record how much National Insurance you have paid and your employer has paid on your behalf (known as National Insurance contributions or NICs). Your employer will need to know your NI number so that they can record the NI contributions they take from your wages. Paying NICs builds up your entitlement to some benefits and the state pension.

You don't need an NI number before you start work but you should apply for one as soon as you do start. However, lots of employers are confused about this, and say that they can't employ you unless you have an NI number. They are wrong. It is perfectly legal to employ someone without an NI number. But it is your responsibility to get one, and it is in your interests to do it as soon as possible so that the money your employer takes from your wages as NICs is credited to you.

To apply, contact your local Jobcentre Plus. You will be asked to go to an interview and to take documents with you to prove your identity. Your application can take six to eight weeks to process, so get an appointment as soon as you can! For more information see 'Applying for a National Insurance number' on the DWP site: www.dwp.gov.uk/lifeevent/benefits/ni_number.asp



Proving your identity

The following documents will help to prove your identity and your address. Take as many different types of proof as you can:

- passport
- national identity card
- birth certificate
- marriage certificate
- medical card
- payslips
- a letter from your employer
- your contract of employment
- details of any employment agencies you are registered with
- invoices or other official letters

Bank accounts

Most employers will want to pay your wages by cheque, or straight into a bank account. You can choose from lots of different types of account. But some people who have just arrived in the UK might have difficulty getting a bank account because they don't yet have enough proof of their identity. If this happens to you, you could try a 'basic bank account'. These accounts only have some of the features of a normal current account, although you do get a cash card and can pay bills by direct debit. You need fewer forms of identity to get one of these accounts because the risk to the bank is lower. Banks will often ask to see your passport, your driving licence or a bill.

If you don't have any of these, the bank should be willing to accept other official documents, for example some of the ones listed above, or a letter confirming who you are from a responsible person who knows you, like your employer, a doctor or teacher.

For more information see 'Basic Bank Accounts – your questions answered' www.fsa.gov.uk/consumer/02_HOW/basic_bank/index.html

Rights at work

The law gives workers and employees lots of rights at work. We can't go into all the detail here, but there are some basic rights that nearly all workers get from their very first day in a new job. Make sure you know what they are and don't get cheated out of them.

National Minimum Wage

There is a UK law which sets the minimum amount you can be paid. (See box.) Rada was getting paid well below this limit. Employers who act illegally in this way can be made to pay you the National Minimum Wage and give you back-pay.

If you have any queries about the minimum wage, or think that your employer is paying you below it you can contact the National Minimum Wage Helpline on 0845 600 0678.



Long hours

You should not have to work for more than 48 hours a week on average. There are other rules too about when you get breaks and holidays. There is a lot more information about this on Citizen Advice's Adviceguide website: www.adviceguide.org.uk/index/life/employment/basic_rights_at_work.htm

How much is the National Minimum Wage?

16–17 year olds: £3.00 per hour

(But this might not apply to 16–17 year olds who are learning a craft or a skill on the job.)

18–21 year olds: £4.25 per hour

22 or older: £5.05 per hour

(If you are receiving accredited training and have been in the post for less than 6 months, you can be paid less, but it must be at least £4.25 per hour. You can find out from your training provider whether your course is accredited.)

These rates will go up in October 2006. You can check the rate of the National Minimum Wage on the Department for Trade and Industry website: www.dti.gov.uk/employment/pay/national-minimum-wage/index.html

Discrimination

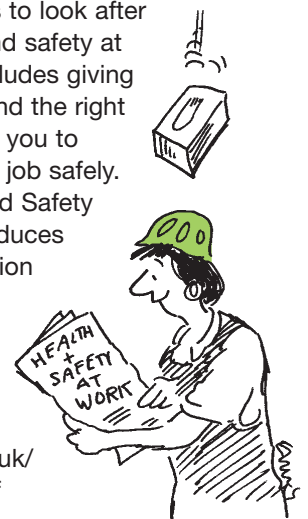
If you are discriminated against in the work place because of where you come from, you don't have to tolerate it. There are laws to protect you. See our guide to discrimination at work: www.advicenow.org.uk/discrimination

Joining a union

A trade union is an organisation of workers who negotiate with employers about things like wages and working conditions. The union can represent you if you are missing out on your rights at work, for example, if you think you are being discriminated against. You have the right to join a union and you don't have to tell your boss if you do. For more information see the TUC's leaflet 'Working in the UK – Your rights' – www.tuc.org.uk/tuc/workingintheuk.pdf

Health and safety

Your boss has to look after your health and safety at work. This includes giving you training and the right equipment for you to carry out your job safely. The Health and Safety Executive produces more information on this. See 'Health and Safety Law: what you should know' www.hse.gov.uk/pubns/law.pdf



For more information on how to deal with problems at work see our guide 'How to tackle problems at work' www.advicenow.org.uk/go/feature/feature_371.html or get advice from one of the agencies listed on page 6.

Remember, your employer should never need to keep documents like your passport. Some crooked employers may try to keep your passport to stop you getting another job.

Benefits

The rules for A8 nationals are complicated. If you're on the WRS you can't usually get benefits like Income Support or Job Seekers Allowance until you've completed a year's employment. But if you do need benefits before you've worked for 12 months get advice from one of the organisations below – help may be available.

Once you have worked legally for 12 months you will be entitled to claim benefits. For more information on the UK benefits system see www.advicenow.org.uk/benefits

If you are here as a self employed person you are entitled to all the same benefits as a British person in your situation. If you are here as a 'self sufficient' person, but need financial help temporarily you may be able to claim benefits on a short-term basis. Get advice from a local advice agency if you're in this situation.

If you are:

- a worker who has completed a year on the WRS; or
- self employed; or
- 'self sufficient'

and you've been having problems claiming benefits it could be because you don't pass the 'Habitual Residence Test' or that it is being applied to you when you should be exempt from it. It can be quite difficult to prove that you're 'habitually resident' so if you're not sure why you were refused get some advice.

Olev and his family are from Estonia. They settled in Bradford where Olev found work in a textiles factory. Then, after he'd been working there for about 14 months the factory went bust and Olev and his colleagues were laid off.

Olev looked for work but couldn't find any straight away. Bills were beginning to mount up so he went to the Jobcentre Plus to try and claim some benefits. The Jobcentre Plus worker told him that he wasn't entitled to benefits because he was an A8 national. Very worried, Olev went to his local community centre and got an appointment with an adviser. The adviser told him that the man at the Jobcentre Plus was wrong. Because Olev had completed his year on the WRS he was entitled to claim benefits. The adviser helped him to put in a claim and sent a letter quoting the rules which allowed Olev to claim benefits. This time the claim was successful.

Useful organisations

Where to go for advice

There are lots of different organisations who can offer advice and support. These include Law Centres, Citizens Advice Bureaux, other local advice agencies, trade unions and solicitors.

Advice^{UK} advice centres

Advice^{UK} is a support network for independent advice centres. You can find out whether there is an Advice^{UK} advice centre near you by going to www.adviceuk.org.uk or telephoning **020 7407 4070**.

Citizens Advice Bureaux (CABx)

Citizens Advice Bureaux help people resolve their legal, money and other problems by providing free information and advice. You can find your local CAB by going to www.citizensadvice.org.uk/index/getadvice.htm or looking under 'Citizens Advice Bureaux' in The Phone Book.

Community Legal Service Direct

CLS Direct is a free, confidential service to help people deal with their legal problems. Through its helpline and website you can get contact details of local advice centres and solicitors who hold the CLS Quality Mark:

**CLS Telephone Services
(0845 345 4 345)**

www.clsdirect.org.uk

East European Advice Centre

East European Advice Centre offers advice and support to east European migrants living in the UK.

Web: www.eeac.org.uk

Telephone: 020 8741 1288

Worker Registration Team

The Worker Registration Team process applications for the WRS.

Worker Registration Team
Home Office, Walsall Road
Cannock WS11 0JA

Telephone: 0114 207 6022

This area of law is very complicated. The Aire Centre is a specialist law centre which exists to provide expert help to advisers in this field. If your adviser wants to be sure that they are giving you the right advice they can contact The Aire Centre:

The Aire Centre

www.airecentre.org

Telephone: 020 7831 4276

Unfortunately The Aire Centre can't give advice to members of the public.

Jargon buster

The jargon	What it means
Benefits	Cash help from government to help with day to day expenses if you are on a low income or are sick or disabled.
Department for Work and Pensions (DWP)	The UK government department that issues NI numbers and looks after pensions and benefits.
EEA national	<p>You are an EEA national if you are a national of one of these countries:</p> <ul style="list-style-type: none"> ● Austria ● Belgium ● Cyprus ● Czech Republic ● Denmark ● Finland ● France ● Germany ● Greece ● Hungary ● Iceland ● Ireland ● Italy ● Latvia ● Liechtenstein ● Luxembourg ● Malta ● Netherlands ● Norway ● Poland ● Portugal ● Slovakia ● Slovenia ● Spain ● Sweden ● Switzerland <p>However, there are different rules for people from the A8 countries (see page 1 for a list of A8 countries).</p>
Habitual Residence Test	A test which the government uses to find out if you are entitled to some benefits.
HM Revenue and Customs	The UK government department that collects tax and National Insurance contributions.
Home Office	The UK government department that looks after law and order and immigration, including issuing registration certificates and managing the Workers Registration Scheme.
Jobcentre Plus	A local government agency that offers help and advice to find a job and make a claim for benefits.
National Insurance number (NI number)	Your own personal number which ensures that the National Insurance contributions and the tax you pay are properly recorded on your account.
National Insurance contributions (NICs)	Money deducted from your wages and used by government to pay for public services like the NHS and benefits. Paying NICs builds up your entitlement to some benefits and the state pension.
Registration Certificate	The document which is given to EEA nationals who have the right to stay in the UK.
Residence Card	The document which is given to non-EEA family members of EEA nationals who have the right to stay in the UK.
Self-sufficient	An EEA national who has enough money to support themselves during their stay in the UK.
Workers Registration Scheme	A8 nationals who want to work in the UK have to register with this scheme run by the Home Office.



Advicenow is an independent, not for profit website. We provide accurate, up-to-date and relevant information on rights and legal issues delivered in an accessible and lively format. As well as bringing together all the best rights and legal information on the web we produce our own guides which include cartoons, quizzes, top tips and jargon busters to help get the message across.

Advicenow leaflets

- **A8: Your rights in the UK**
- **Bailiffs and debt collection**
- **Claiming compensation**
- **Discrimination: Raising a grievance**
- **Divorce: A survival toolkit**
- **Do I need a lawyer?**
- **EEA: Your rights in the UK**
- **Homeless? Get your foot in the door ...**
- **How to get good asylum advice**
- **Identity theft**
- **Parents apart**
- **Seven steps to solving your problem**

You can view all these leaflets at www.advicenow.org.uk/features.

Advicenow campaigns

- Common law marriage doesn't exist. So what rights do couples living together really have? See www.advicenow.org.uk/livingtogether.
- Getting divorced or splitting up? Find out how family mediation can help you sort out arrangements for your kids, home and money. See www.advicenow.org.uk/familymediation.

"Advicenow is the liveliest, least stuffy, most accessible and understandable website on legal matters that I've ever come across."

Marcel Berlins, *The Guardian*

Plain
English
Campaign

Plain English Web Award

The information in this leaflet applies to England and Wales.

The law is complicated and every case is different. Get advice.

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If you have any comments on this leaflet please email us at feedback@advicenow.org.uk



**advice
services
alliance**

Advicenow is run by the Advice Services Alliance, the coordinating body for all UK advice services. ASA members include advice^{UK}, Age Concern, Citizens Advice, DIAL UK, Law Centres Federation, Shelter and Youth Access.

Advices Services Alliance
Bramah House, 65-71 Bermondsey Street, London SE1 3XF

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www.advicenow.org.uk/A8rights