

# Organisational Regulation

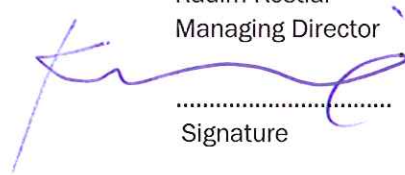
## L-01-35

### Prevention of Illegal Work Policy

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Signature

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## Amendments

Date of Change	Created by	Characteristic
26.8.2020	Jersáková	Annual update

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# 1 Introduction

## Statement of Intent

As an employer we have a legal responsibility to prevent illegal working in Sipral UK Ltd. (hereinafter “Sipral”).

The Immigration, Asylum and National Act 2006 places the requirement for all employers to conduct basic document checks on every person that they intend to employ. By undertaking the document checks we can be reassured that we are complying with our legal obligations and we are doing everything possible to only employ people who are allowed to work in the UK.

The following guidance reflects the new requirements for the prevention of illegal working issued by the Home office with effect from the 16 May 2014.

The resident population of the UK contains a diverse range of ethnic groups and there are many people from outside the UK who are legally entitled to work here. It is important to remember therefore that the checks on entitlement to work in the UK need to be conducted for every person we employ, regardless of their race, ethnicity or nationality, to avoid any potential discrimination.

## 2 Scope

Who does this policy apply to

This policy applies to all our employees and prospective employees, irrespective of race, ethnicity or nationality.

This policy also applies to all visitors (excluding day visitors), contractors and agency workers conducting their work at our projects.

## 3. Delegation

**HR Director** of Sipral Group delegates responsibility to Office Manager to perform the documents check on all our employees and potential employees as described in this Policy.

**Office Manager** is responsible to ensure that each employee’s Right to Work check is carried out in line with Home Office guidance for the prevention of illegal working.

Right to Work check can only be carried out by employees of Sipral. **Office Manager** has the primary responsibility for carrying out the necessary checks, supported by the **Operations Manager** and/or **Site Manager** at the respective site/project.

Every **Site Manager** has the primary responsibility to check that all our contractors and subcontractors with their employees working on our construction sites/projects use only individuals with the right to work in the UK.

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The right to perform an audit to make sure that Sipral contractors and subcontractors follow the same illegal working prevention procedures as described in this policy (steps 1 to 3: Obtain – Check - Copy) have:

- HR Director,
- QHSE Manager,
- Operations Manager.

## 4 Procedure

### **Why is it important**

It is unlawful to employ anyone who does not have the right to work in the UK.

If we are found to be employing an illegal worker, we could be subject to a fine of up to GBP20,000 per illegal worker.

It is also a criminal offence to knowingly employ an illegal worker; if found guilty of this offence we may face unlimited fine and the individuals responsible could face up to five years imprisonment.

In addition, were we to be found to be employing someone illegally this would result in very damaging adverse publicity.

Given the importance of these requirements, compliance with the policy is mandatory. A failure to comply with the Prevention of Illegal Working Policy, will be treated as a disciplinary offence which, depending on the circumstances, could be considered an act of gross misconduct.

### **When must be the initial check be carried out**

For prospective employees, the right to work checks should be conducted at the interview stage of the recruitment process. If, for any reason, this is not possible, the necessary documents must be submitted and verified prior to the first day of employment; in all respects only original documents must be accepted and the individual must be present at the point of checks in person. If the relevant documents have not been checked and verified, the individual will not be permitted to commence their employment with Sipral.

### **How to carry out a check**

There are three steps to the process:

#### **Step 1 - Obtain**

Ask for and be given original documentation, consisting of either:

- one of the single documents, or two of the documents in the specified combination given, from List A (attached to this Guide as Appendix 1); or
- one of the single documents, or two of the documents in the specified combination given, from List B (attached to this Guide as Appendix 2)

You must only accept original documents.

#### **Step 2 - Check**

When you see the document, you must take reasonable steps to satisfy yourself that the person presents the documents is the rightful holder and is allowed to undertake the work that we are offering, by:

- checking that the photographs are consistent with the appearance of the person presenting them. This means that you will need to see the individual when they present their documents to you;

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- checking the consistency of the date of birth on all the documents presented and that it matches with the person's appearance. This again means that you will need to see the individual when they present their documents to you;
- checking that the expiry dates of any visas have not passed. This means that you will need to carefully examine any visas to check they are still valid; and
- checking any UK government endorsements (biometric resident permits, stamps, stickers, visas etc.) to see if the person is able to do, or to continue to do, the type of work they can do, or the amount of hours they can work, you need to be satisfied that their work does not contravene these requirements.

You should satisfy yourself, as far as possible, that the documents are genuine, have not been tampered with, and belong to the holder. If you have any concerns at this point contact the **HR Director**.

The Home Office guidance for identifying fraudulent documents can be found at the following location: [https://www.gov.uk/government/uploads/attachment\\_data/file/455424/guide\\_including\\_impostors\\_and\\_TDs.pdf](https://www.gov.uk/government/uploads/attachment_data/file/455424/guide_including_impostors_and_TDs.pdf)

If you are given two documents which state different names, you will need to ask the individual for a further document to explain this discrepancy (for example, a marriage certificate, a divorce decree absolute, a dead poll, or a statutory declaration). Again, you will need to see the original of this document.

### **Step 3 - Copy**

You must take a copy of the relevant page(s) of the document(s). This copy must be clear; please make sure it is possible to identify any photos/stamps/endorsements etc.

In the case of a passport, or other travel document, you must copy or scan:

- any page containing the holder's personal details (in particular, details of nationality, date of birth, a photograph, signature, date of expiry or biometric details); and
- any page containing UK Government endorsements showing that the holder has permission to be in the UK and has the right to carry out the work in question.

All other documents must be copied in full (including both sides of a biometric permit or national identity card).

The responsible person checking the document must certify the copy, using the Sipral UK Right to Work Verification Template, contained in Appendix 4, as being a true and accurate copy of the original and that the original has been seen. The responsible person must also sign, print their name and date the template.

### **Which documents are acceptable**

The Home Office has published detailed guidance regarding the documents that must be checked. They are separated into two types – List A and List B documents; List B consists of two distinct groups of documents that have specific time limited requirements placed on them. Only documents included on these lists are acceptable; no other documents will be accepted by the Home Office.

There are strict rules about which documents will be accepted to prove that an individual has the right to work in the UK. Appendix 3 includes a list of some documents which are frequently presented to employers, but which are not acceptable in proving that an employee has the right to work (as they are not included in either List A or List B).

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### List A Documents

Documents that fall within the List A category show that the holder is not subject to immigration control or has no restrictions on their ability to be in the UK, so they have an ongoing right to work in the UK. These documents only need to be checked once, at the point of recruitment. A copy of List A is included at Appendix 1 of this Guide.

#### Common List A documents

- UK passport;
- passport or national identity card showing that the holder is a national of an European Economic Area (EEA) country or Switzerland;
- a biometric residence permit issued by the Home office;
- a P45/P60/Nl number card AND a full birth certificate issued in the UK.

### List B Documents

Documents that fall within the List B category (either Group A or Group B) show that the holder has been granted leave to enter or remain in the UK for a limited period of time or that they have restrictions on their right to work. These documents need to be checked at specific times in accordance with Appendix 2 of this Policy.

### Expired Passports

The following documents must be current (i.e. have not expired) to provide a statutory excuse:

- Biometric Residence Permit;
- Immigration Status Documents;
- passports which are not held by a British Citizen (or a citizen of the UK and Colonies having a right of abode in the UK) or a national of an EEA country or Switzerland; and
- Residence Cards (including Accession Residence Cards and Derivative Residence Cards) issued to a non-EEA national who is a family member of a national of an EEA country or Switzerland.

Visa stamps in expired passports (e.g. Indefinite Leave to Remain stamp)

Legislation states that visa stamps in expired passports no longer give an employer a statutory excuse under the Prevention of Illegal Working Act. Without the potential employee providing correct documentation they will not be able to commence employment with Sipral.

### Retaining copies

After the List A or B documents have been verified and checked (as per the 3 Step above), the certified template must be retained in a secure manner in locked cupboard with no access of unauthorized person.

Copies must be kept for the duration of the person's employment with Sipral and then for not less than two years after they have stopped working with the company. This is the requirement to which we must comply, and forms part of our Documentation and Records Management Policy O-02-13.

### **Repeat checks**

Repeat checks are required if the individual has a time limit on their ability to enter or remain in the UK or has restrictions on their right to work, i.e. whenever a List B (either Group 1 or Group 2) documents (or combination of documents) is presented as evidence of the right to work.

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The repeat document checks must take place in accordance with the requirements shown in Appendix 2, or, if the right to work is dependent on a visa, on expiry of the visa, whichever is sooner. The repeat checks are in addition to the initial checks carried out at the commencement of employment.

If, on the repeat checks, an individual presents a List A document, then no further checks are necessary for the duration of the person's employment with Sipral. In all cases the relevant documentation must be retained in secure place.

For all Group 1 documents, the Office Manager will undertake reporting actions in line with both the contract and visa expiry of the individual and review whether notification has been received from the individual to evidence that further repeat checks are not required.

If further repeat checks are required, in accordance with Appendix 2, appropriate actions will be taken to either make the individual a leaver, undertake further Employer Verification Checks via the Home Office or for arrangements to be made for the individual to undertake any appropriate further leave to remain application through the Home Office and any relevant sponsor.

In all cases relating to Group 2 documents, the **Office Manager** will, on a regular basis, identify individuals who require a further Employer Verification Check. Once it is confirmed that there are no issues relating to the individual, the **Office Manager** will contact the individual in accordance with the Appendix 2 process and then complete the Employer Verification Check.

Subsequent actions will be initiated subject to the relevant response.

#### **How is a repeat check carried out**

If a repeat check is required, please repeat Steps 1 to 3 above.

In summary, original documents should be viewed, copied and verified, and the copy should be kept on the individual's personnel file.

**Office Manager** will notify the employee when the checks are due and will have the primary responsibility to carry out these checks. In the event of any queries about the repeat checks speak to **HR Director**.

## **Contractors and Subcontractors**

All Sipral contractors and subcontractors are expected to have their Prevention of Illegal Working Policy in place.

Sipral **Site Manager** has the primary responsibility to check that every person working on our construction sites/projects under his management has the right to work in the UK.

With regards to the subcontractors this is done via the form UKF 102 (Operative Pre-assessment Form / Manager Supervisor Pre-assessment Form ). The form must be completed before an individual enters our construction site.

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### **Appendix 1 – Documents which show an ongoing Right to Work**

A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.

A passport or national identity card showing that the holder, or a person named in the passport as the child or holder, is a national of the European Economic Area (EEA) or Switzerland.

A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office to national of a EEA country or Switzerland.

A permanent residence card issued by the Home Office to a family member of a national of a EEA country or Switzerland.

A current Biometric Residence Permit issued by the Home Office to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on stay in the United Kingdom.

A current passport or travel document endorsed to show the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.

### **The following documents must be accompanied by any official document issued by a previous employer or a Government agency showing the person's National Insurance number and name:**

A current immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom.

A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents.

A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents.

A birth certificate issued in the Channel Islands, the Isle of Man or Ireland.

An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland.

A certificate of registration or naturalisation as a British citizen.

*NOTE: You may not accept an expired passport unless it is a UK passport or a passport issued by a member state of EEA. Expired passports issued by any other country are not acceptable, even if they purport to contain older immigration stamps conferring indefinite leave to enter or remain.*

*If you have to rely solely on an expired passport or travel document than you must take particular care when examining photographs and comparing them with the current appearance of a person presenting them. Also, you should note the date of birth and satisfy yourself that this is consistent with the current appearance of the holder.*

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## **Appendix 2 – Documents which show a Right to Work for a limited period of time**

The following List B lists acceptable documents to establish statutory excuse for a limited period of time.

### **Group 1 – documents where a time-limited statutory excuse lasts until the expiry date of leave**

A current passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do any type of work in question.

A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.

A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-EEA national who is a family member of a national of an EEA country or Switzerland or who has a derivative right of residence.

A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do any type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.

If the employee is able to produce a current document in Group 1 or 2, a follow-up check should be made using this document. Any time-limited statutory excuse will continue for as long as the employee has permission to be in the UK and do the work in question, as evidenced by the document, or combination of documents, the employee produced for the right to work check.

If however, at the point that permission expires, we are reasonably satisfied that the employee has an outstanding application or appeal to vary or extend their leave in the UK, any time-limited statutory excuse will continue from the expiry date of the employee's permission for a further period of up to 28 days. This is to enable us as the employer to verify whether the employee has permission to continue working for Sipral UK.

During this 28 day period Sipral must contact the Employer Checking Service and receive a Positive Verification Notice confirming the employee continues to have the right to undertake the work in question.

In the event that a Positive Verification Notice is received, the statutory excuse will last for a further six months from the date specified in the Notice. Sipral will then need to make a further check, as above, upon its expiry.

In the event that a Negative Verification Notice is received, any statutory excuse will be terminated and Sipral should not engage with, employ, or continue to employ this person, as this notice confirms that they do not have permission to do the work in question.

An application or appeal must be made on or before a person's permission to be in the UK and do the work in question expires in order to be deemed 'in-time' and valid. In the event that a Negative Verification Notice is received from the Employer Checking Service stating that the employee does not have permission to undertake the work in question, Sipral will not have a statutory excuse and should no longer employ that person.

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It is possible for someone to make an application after their permission to be in the UK has expired, but it must normally be within 28 days of expiry. Although the Home Office may consider and grant such applications, it is important to note that Sipral will not be able to employ this individual pending the outcome of their application. This is because when an application or appeal is made 'out of time' any previous permission to work expires when their previous permission to be in the UK expires. It is therefore important that a person makes an application to the Home Office before their permission to be here expires.

**Group 2 – documents where a time-limited statutory excuse lasts for 6 months**

A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (EEA) Regulations 2006 to a family member of a national of a EEA country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a Positive Verification Notice from the Home Office Employer Checking Service.

An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.

A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer which indicates that the named person may stay in the UK and is permitted to do the work in question.

If the prospective employee or employee holds one of the documents in Group 2, or is unable to present an acceptable document because they have an outstanding application with the Home Office or an appeal in respect of their leave to remain, Sipral UK must contact the Employer Checking Service and receive a Positive Verification Notice. Any time-limited statutory excuse will last for six months from the date specified in the Positive Verification Notice. Sipral UK will then need to make a further check, as above, upon its expiry.

Before requesting any verification check, there is a delay of 14 days from the date of the individual's visa application or appeal being made in order that the application or appeal to be registered at the Home Office.

Sipral UK will receive a response from the Employer Checking Services – either a Positive Verification Notice or a Negative Verification Notice – within 5 working days. It is the responsibility of the Office Manager to inform the person we intend to employ, or continue employing, that they are carrying out this check.

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**Appendix 3 – Documents which are not acceptable for providing Right to Work**

**The following documents are not acceptable for proving a person has the right to work in the UK and will not provide Sipral with an excuse against payment of a civil or criminal penalty**

A Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the UK. If you are presented with these documents then you should advise the applicant to call the Home Office, details of how can be found at <http://www.gov.uk/visas-immigration> for information about how they can apply for an Application Registration Card;

A National Insurance number on its own in any format;

A driving license issued by the Driver and Vehicle Licensing Agency;

A bill issued by a financial institution or a utility company;

A passport describing the holder as a British Dependent Territories Citizen which states that the holder has a connection with Gibraltar;

A short (abbreviated) birth certificate issued in the UK which does not have details of at least one of the holder's parents;

A license provided by a Security Industry Authority;

A document check by the Criminal Record Bureau;

A card or certificate issued by the Inland Revenue under the Construction Industry Scheme.

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**Appendix 4 – Sipral UK Right to Work Verification Template**

Name:

Employee Number:

Place Document here

I certify this is a true likeness of the original document

Sign:

Print Name:

Date of check:

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