

# Applying for permission to work while claiming asylum<sup>1</sup>

October 2010

## Who can apply

The European Directive 2003/9/EC (the Reception Directive) states that the main asylum applicant can apply for permission to work if:

- you waited more than 12 months for an initial decision by the Home Office on your asylum claim or fresh claim for asylum<sup>2</sup> (see **Fresh Claims for Asylum** section below);
- the delay in the Home Office's decision was not your fault; and
- your claim for asylum or fresh claim application is ongoing, even if it is now at the appeal stage.

The Reception Directive (and the Immigration Rules<sup>3</sup>) state that permission to work can be denied if the delay in dealing with the asylum claim can be attributed to the applicant. There is no right of appeal if your application for permission to work is refused. However, you are able to apply again.

## Fresh claims for asylum

The Court of Appeal ruled in *ZO (Somalia) and MM (Burma)*<sup>4</sup> in May 2009 that fresh claims for asylum are covered under the Reception Directive. The decision was upheld by the Supreme Court in July 2010. Therefore, main applicants can apply for permission to work after twelve months of submitting the fresh claim if they meet the criteria outlined above under **Who Can Apply**. The Home Office indicated that it would not process applications for permission to work from applicants with fresh claims until 9 September 2010.

## Applying for permission to work from 9 September 2010

The government amended the immigration rules so that **all** asylum seekers who apply for permission to work from 9 September 2010 will be restricted to [national shortage occupations](#). You should follow the same steps when applying for permission to work outlined below in **How do I apply?** An employer

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<sup>1</sup> This briefing is for information purposes only and does not constitute legal advice.

<sup>2</sup> Fresh claims for asylum are made following a previous asylum application being fully decided and refused. The fresh claim is made on the basis that its content is significantly different from the previously refused asylum application.

<sup>3</sup> See the Asylum Process Guidance *Handling Applications from Asylum Applicants and Active Review Applicants for Permission to Take Employment* at <http://ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumprocessguidance/consideringanddecidingtheclaim/guidance/handlingapplicationsforperm.pdf?view=Binary>, last searched 9 July 2009

<sup>4</sup> *The Queen on the Applications of ZO (Somalia) and MM (Burma) and Secretary of State for the Home Department* [2009] EWCA Civ 442. For further details on

does not need to issue a Certificate of Sponsorship and should follow the same steps outlined below under **What documents do I need to show entitlement to work?**

All asylum seekers applying for permission to work before 9 September 2010 are not restricted to the jobs on the national shortage occupation list. If you applied before this date and have been refused or restricted to the national shortage occupations, you should seek legal advice.

## **How long does the permission to work last?**

Asylum seekers permitted to work under the Directive retain this right while waiting for an initial decision and during any appeal stage.

## **How do I apply?**

**I have a named caseowner:** you should apply directly to them.

The Immigration Enquiry Bureau can confirm if you have a named caseworker and can be contacted on 0870 606 7766

**I do not have a named caseowner:** you should apply to the Case Resolution Directorate at the following address:

Lunar House, 40 Wellesley Road, Croydon, Surrey, CR9 2BY

In the letter you must state:

- your Home Office reference number
- that you are requesting permission to work on the basis that your application for asylum or fresh claim has been outstanding for over 12 months without a decision

You can check online whether your case has been allocated to one of the Case Resolution teams via the Case Resolution Directorate (CRD) Allocation finder. This will give the name and address of the team dealing with the case. For this you need your full Home Office reference number. The CRD Allocation Finder can be accessed online at:

<http://www.ukba.homeoffice.gov.uk/asylum/oldercases/who-is-processing-my-case/>

## **What documents do I need to show entitlement to work?**

### **Asylum Application Card (ARC)**

If successful, you should receive details of where to go for a new Application Registration Card (ARC). Your ARC will need to be changed to show that employment is permitted. Your new ARC will state 'Allowed to Work'. Previously, cards were issued with 'Employment Permitted' and these are still valid.

Along with taking a copy of your ARC, an employer should also get faxed confirmation from the Employers' Checking Service that you have permission to work. Further details on this process can be

found in the Refugee Council and Equality and Human Rights Commission's booklet for employers [\*Employing Refugees\*](#)<sup>5</sup>

### **National Insurance Numbers**

If you have permission to work but do not have a National Insurance Number (NINO), then you should call Job Centre Plus on **0845 6000643**. They will check your basic conditions and make an appointment to attend a Jobcentre for an evidence of identity interview. Following this you will receive your NINO. If it is difficult for you to travel to the Jobcentre, then they should consider offices closer to where you live. If you are in work and your employer has issued you with a temporary NINO, then you should call the above number as well.

If the information in this briefing applies to you and you need further advice on your individual circumstances, please check with your solicitor or contact our One Stop Service (further details at [http://www.refugeecouncil.org.uk/contactus/advice\\_lines.htm](http://www.refugeecouncil.org.uk/contactus/advice_lines.htm)).

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<sup>5</sup> *Employing Refugees – A guide for employers: documents providing evidence of entitlement to work* (2009). See <http://www.refugeecouncil.org.uk/Resources/Refugee%20Council/downloads/practice/Employing%20Refugees%20Guide.pdf>, last searched 17 June 2009