Guidance – Right to Work Documents

# Introduction

As an employer we have a duty to prevent illegal working by carrying out checks to confirm if a person has the right to work in the UK. Checks are conducted before anyone starts working for us as well as during employment when the legal right to work is for a defined duration.

There are two types of right to work checks: a manual check and an online check.

Where a manual check is conducted, we check and make a clear copy of the original acceptable documents. The copy is retained by us with a record of the date the check was made.

Where an online check is conducted, we check and make a clear copy of the response provided by the online right to work check. The copy is retained by us with a record of the date the check was made.

If a person has a time limit on their stay, we will carry out the required repeat checks. If a person has a restriction on the type of work, they can do and/or the number of hours they can work, we will not employ them in breach of these restrictions.

Where somebody has an outstanding EU Settlement Scheme application or are undergoing a case review or appeal with the Home Office, we shall use the Employer Checking Service for verification.

# Manual Checks

## The process

All three steps must be completed before an employee can start work:

1. You must provide the company with an original document as set out in the list of acceptable documents (list A or list B)
2. The company will check the original documents so that we are satisfied they support the legal right to work in the UK. This will include checking the documents are genuine, that the person holding them is the prospective employee/employee and therefore the rightful holder and is allowed to do the type of work that we are offering.
3. For all candidates, we will also check:
	1. that the documents are originals and appear to belong to the person who has given them
	2. that any photographs are the same across all documents and look like the person
	3. that the dates of birth are the same across all documents
	4. that expiry dates have not passed
	5. that the person has permission to do the type of work that is being offered, including any limit on the number of hours that can be worked
	6. where there is a discrepancy on two documents or more, we will ask the reasons for this and ask for further documents to substantiate the changes, i.e., marriage certificate, divorce document, deed poll, etc.
4. The company will take a clear copy of each original document. This copy will be in a format which cannot be manually altered and retain securely on the personnel file. A record of the date on which the check has been conducted will also be recorded.
5. **For those who have a restriction on the type of work they can undertake and/or the number of hours they can work:** We will not employ anybody in breach of the restrictions in which they have obtained a legal right to work in the UK.
6. **For those who have a legal right to work for a defined period:** A follow up repeated check of the above steps will be carried out just prior to the expiry of the pre settled status/visa.

# **List of acceptable documents**

Manual right to work checks will require you to provide one of the following **original** documents which will be checked, copied, and filed, as evidence of your entitlement to work. All original documents will be returned safely.

The documents that are acceptable for proving someone has the right to work in the UK as part of a manual check, are split into two lists:

* **List A** - documents show that the holder is not subject to immigration control, or has no restrictions on their stay, so they have an ongoing right to work in the UK. The person has a permanent right to work in the UK. No further checks will be required during employment.
* **List B** - documents show that the holder has been granted leave to enter or **remain** in the UK for a limited period and/or has restrictions on their right to work. We will carry out repeat document checks shortly before their permission to be in the UK expires.

**List A – acceptable documents to establish a continuous statutory excuse**

1. A passport (current or expired) 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 UK and Colonies having the right of abode in the United Kingdom.
2. A passport or passport card (current or expired) showing that the holder is a national of the Republic of Ireland.
3. A **current** document issued by the Home Office to a family member of an EEA or Swiss national, and which indicates that the holder is permitted to stay in the United Kingdom indefinitely.
4. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey, or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that holder has been granted unlimited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
5. A **current** biometric immigration document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK.
6. A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7. A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **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.
8. A birth or adoption certificate issued in the UK, **together with** an official document giving the persons permanent National Insurance number and their name issued by a government agency or a previous employer
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **together with** an official document giving the persons permanent National Insurance number and their name issued by a government agency or a previous employer
10. A certificate of registration or naturalisation as a British citizen **together with** an official document giving the persons permanent National Insurance number and their name issued by a government agency or a previous employer.

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

1. A **current** passport endorsed to show that the holder is allowed to stay in the UK and is allowed to do the type of work in question.
2. 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 United Kingdom and is allowed to do the work in question.
3. A **current** document issued by the Home Office to a family member of an EEA or Swiss national, and which indicates that the holder is permitted to stay in the United Kingdom for a time limited period and to do the type of work in question.
4. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey, or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that holder has been granted limited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
5. A document issued by the Bailiwick of Jersey or the Bailiwick of Guernsey, which has been verified as valid by the Home Office Employer Checking Service, showing that holder has made an application for leave to enter or remain under Appendix EU to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008, on or before 30 June 2021.
6. A frontier worker permit issued under regulation 8 of the Citizen’s Rights (Frontier Workers) (EU Exit) Regulations 2020.
7. 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 the 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.

**List B: Group 2 – documents where a time-limited statutory excuse lasts for six months**

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30 June 2021 **together with a Positive Verification Notice** from the Home Office Employer Checking Service.
2. A document issued by the Bailiwick of Jersey or the Bailiwick of Guernsey showing that the holder has made an application for leave to enter or remain under the Appendix EU to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008, on or before 30 June 2021 **together with a Positive Verification Notice** from the Home Office Employer Checking Service.
3. 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.
4. 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.

# Online checks

## When to use the online checking service

An online right to work check may not always be possible in every situation. The online service currently allows digital checks to be conducted where the person holds:

* A biometric residence permit
* A biometric residence card
* Status issued under the EU Settlement Scheme
* Status issued under the points based immigration system
* British National Overseas (BNO) visa
* Frontier workers permit.

If you hold one of the above forms of immigration status, you are entitled to choose whether you evidence your right to work through the online service or by participating in the company’s manual checking process.

## The process

To enable us to perform an online check, you must provide us with your date of birth, and the ‘share code’ generated by the Home Office online right to work checking service. This share code will be valid for 30 days from the point it has been issued. Where it has expired, we shall ask you to resend your new right to work share code. Online checks will only be conducted with your permission. If you choose not to give permission, we will conduct a manual check instead.

The process to be followed, when choosing to provide us with your proof of your legal right to work is as follows:

1. You will need to visit <https://www.gov.uk/view-prove-immigration-status> to view your Home Office right to work record and to obtain a share code. You must provide the share code to the company either directly to us, or send it to us via the online service where we will receive an email from right.to.work.service@notifications.service.gov.uk.
2. We will use the share code along with your date of birth to access your right to work profile page via <https://www.gov.uk/view-right-to-work>. Where we will then conduct our online right to work check to obtain a statutory excuse for employing you.
3. We will check that the photograph on the online right to work checking service is a picture of you by checking this whilst in your presence either in person or via live video link.
4. So that we can establish a statutory excuse for employing you the online service must confirm to us that you do have the right to work in the UK and do the work in question.
5. We will retain evidence of our online right to work check, by retaining a copy of your profile page, which will include your picture and the date on which we conducted the check. We will either a print-out or save the evidence as an electronic (PDF/HTML) file on our systems as our evidence.

## Circumstances in which to contact the Home Office to verify the right to work

In most cases, the right to work check will be carried out either manually or via the online checking service. However, there are circumstances where we would be required to contact the Home Office directly to establish a statutory excuse for employing. This would be in circumstances when:

1. You present the company with a Certificate of Application which is less than six months old and indicating that work is permitted.
2. You present an Application Registration Card which states that you are permitted to undertake the work in question, and for which is still in date (some may have an expiry date). Any work will be restricted to employment in a shortage occupation.
3. We are satisfied that you have not been provided with an acceptable document because you have an outstanding application with the Home Office which was made before your previous permission expired or where you have an appeal or administrative review pending against the Home Office decision and therefore cannot provide evidence of your right to work.
4. You consider that you have not been provided with an acceptable document, but you present other information indicating you a long-term resident of the UK where you arrived in the UK before 1988.

In these above circumstances we will be able to employ/continue to employ you only where you have been issued with a Positive Verification Notice (PVN). This is official confirmation from the Home Office confirming that you are allowed to carry out the work in question.

### **Outstanding applications, appeals and administrative reviews**

We will wait at least 14 days after your application, appeal or administrative review has been delivered or posted to us or the court before requesting a verification check through the Employer Checking Service. When we do, we must obtain confirmation from you of when you made the application, appeal or administrative review to the Home Office.

### **Evidence**

### We will check the certificate of application to verify that it is not more than six months old. A copy of this document along with the Positive Verification Number (PVN) will be made and stored in line with the guidance set out in which guide previously.

### Earlier versions of the Application Registration Card (issued pre-July 2017) are no longer being issued but can continue to be used until they expire. We can accept a new biometric style or an old ARC as evidence of a right to work so long as we have verified the right to work and any restrictions by obtaining a Positive Verification Notice. The statutory excuse for being able to legally employ you will expire six months from the date of the Positive Verification Notice, meaning that a further right to work check will be necessary.

# Implications of not having the legal right to work

Once the above checks have been carried out, if it is found that the person is not permitted to work, or if there are any discrepancies or queries on the information supplied during any part of the recruitment process that give cause for concern, these will be discussed with the person for the company to investigate further.

If it is found that the information is incorrect or false, or the discrepancy cannot be resolved we reserve the right to withdraw the offer of employment; or in the case of an employee needing to evidence a right to continue working may terminate the employment contract.