



Home Office

Frequently asked questions about the illegal working civil penalty scheme

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1: Introduction

Under [section 15 of the Immigration, Asylum and Nationality Act 2006](#) (“the Act”) an employer may be liable for a civil penalty if they employ someone who does not have the right to carry out the work in question. Employers have a duty to prevent illegal working in the UK by people who are subject to immigration control. Where this is not complied with, an employer may face a financial penalty (civil penalty) and in some cases, prosecution.

An employer can avoid becoming liable for a civil penalty and prosecution by carrying out simple specified document checks on people before employing them, to ensure they are allowed to work in the UK. This check needs to be repeated when someone has temporary permission to be in the UK and to work. Conducting these checks in the prescribed manner will provide a statutory excuse against a civil penalty.

This document contains questions which employers often ask, together with replies. It has been issued alongside the following information for employers:

- [An employer’s guide to acceptable right to work documents;](#)
- [An employer’s guide to right to work checks;](#)
- [An employer’s guide to the administration of the civil penalty scheme;](#)
- [Code of practice on preventing illegal working: Civil penalty scheme for employers;](#)
- Code of practice for employers: [Avoiding unlawful discrimination](#) while preventing illegal working;
- [An employer’s ‘Right to Work Checklist’;](#)
- An online interactive tool ‘[Check if someone can work in the UK](#)’, and
- An online interactive tool “[Employer Checking Service Enquiries](#)”.

They can be found [here](#).

Please refer to the most recent published version. This is indicated on the front cover of the document.

Who should read these Frequently Asked Questions?

Employers, their legal representatives and those staff within the organisation with delegated responsibility for the recruitment and employment of individuals may find these Frequently Asked Questions useful.

References in this guidance

‘We’ or ‘us’ in this guidance mean the Home Office. References to ‘you’ and ‘your’ mean the employer.

‘Days’ means calendar days including Saturdays, Sundays and bank holidays.

'Employee' or 'worker' means someone who is employed under a contract of employment, service or apprenticeship.

'Breach' or 'breaches' mean that section 15 of the Act has been contravened by employing someone who is:

- subject to immigration control; and
- aged over 16; and
- not allowed to carry out the work in question because either they have not been granted leave to enter or remain in the UK or because their leave to enter or remain in the UK:
 - (i) is invalid;
 - (ii) has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise; or
 - (iii) is subject to a condition preventing them from accepting the employment.

Summary of changes in this issue

These Frequently Asked Questions were first published on 16 May 2014 to coincide with new illegal working requirements coming into force. The document was subsequently amended in July 2014 and, again, in November 2014.

The changes included within this issue provide clarification in respect of:-

- [Biometric Residence Permits](#) (BRPs) which migrants who are granted permission to enter or remain in the UK for more than six months will increasingly use to demonstrate their right to work;
- [Residence Cards \(biometric format\)](#) issued to non European Economic Area (EEA) family members of EEA nationals from 6 April 2015. They will replace older forms of residence cards to demonstrate their right to work;
- [Administrative reviews](#) which have replaced many rights of appeal against a decision to refuse an immigration application; and
- We indicate the new process for issuing a [Certificate of Application](#) to non EEA family members of EEA nationals.

2: Right to work checks

Q1 Why do I need to carry out document checks?

A. As an employer, you have a duty to prevent illegal working. You should conduct document checks to make it harder for people with no right to work in the UK to unlawfully obtain or stay in employment and to make it easier for you to ensure that you only employ people permitted to do the work in question. You may discharge this duty and obtain a statutory excuse (a defence) against liability for a civil penalty of up to a maximum of £20,000 per illegal worker by conducting right to work checks. However, the check will not provide an excuse if you know that the employment is not permitted. Then you may also be committing a criminal offence.

Q2 How do I obtain a statutory excuse against a civil penalty liability?

A By checking a document or a combination of documents specified in the [Code of practice on preventing illegal working](#) which show that your potential employee is permitted to do the type of work you are offering and to work for number of hours. You must do this **before** you employ them. You will also have to conduct a follow-up check on people who have time-limited permission to be in the UK and work.

The checks can be broken down into these 3 key steps:

1. **Obtain** the person's original documents;
2. **Check** them in the presence of the holder; and
3. Make and retain a clear **copy** of the document, and make a record of the date of the check. If the person is a student subject to a condition limiting the number of hours they can work per week during term time, obtain and retain details of their term and vacation dates.

You will also find detailed information on **how** to correctly conduct right to work checks and the lists of acceptable documents in the "[Employer's Guide To Right To Work Checks](#)". The list of acceptable documents is also contained in [Annex A](#). A separate document: '[An Employer's Guide To Acceptable Right To Work Documents](#)' contains some examples of the documents contained in the lists.

Q3 Do I need to do any further document checks during the time I employ them?

A. **No**, if the person is British, an EEA national or a person settled here with permanent residence and who has no limits on their right to be in the UK and work. The latter group will be people who have "indefinite leave to remain/enter", a "no time limit" or a "right of abode". This is because there are no restrictions on their ability to work in the UK. These documents are set out in [List A](#) in the "[Code of practice on preventing illegal working](#)".

Yes, if you conducted the check using documents from [Group 1 of List B](#) of the Code. You will need to conduct a follow-up check to retain the statutory excuse because the person has temporary permission to stay and work in the UK. From 16 May 2014, the next check will be when their permission to work comes to an end and should be undertaken in the same way as the initial check.

Yes, if you conduct the right to work check against [Group 2 of List B](#) of the Code. You will have to contact the Home Office's [Employer Checking Service](#) who will verify a right to work and provide a positive verification notice to confirm this. This will give you a statutory excuse for six months when the check must be repeated. This additional verification is necessary when your potential employee or employee provides either a "[Certificate of Application](#)" or an "[Application Registration Card](#)" which permits work. It will also be necessary when you are reasonably satisfied that your potential employee, or employee, has an outstanding immigration application, appeal or administrative review.

However, you will not retain the statutory excuse if you know that the work is not permitted, for example because the Home Office has told you that your employee is no longer permitted to work in the UK. In such circumstances, you may be liable for a civil penalty for employing an illegal worker and may be committing a criminal offence.

The [Code of practice on preventing illegal working](#) applies for existing employees where a repeat check is required on or after 16 May 2014.

Q4 Can I obtain a statutory excuse against a civil penalty for staff employed by me abroad who are coming to work for me in the UK?

A. Yes. You may undertake the check before they come to the UK to work for you in order to establish the statutory excuse.

You are not required to undertake right to work checks on staff employed by you who work all the time overseas.

Q5 Can I undertake the right to work check on the first day of employment?

A. In order to establish the excuse, you are required to undertake the right to work check **before** the employment commences. There is no restriction on when the check may be performed. It could be performed immediately before the employment commences (including the same day) or within a reasonable time period before the employment commences.

Q6 How does a British citizen show they are allowed to work?

A. A British citizen may demonstrate their right to work by providing **either** just their UK passport (which may be an expired document for these

purposes), or a combination of the following documents from [List A](#) of the Code:

- a document issued by a Government Agency or previous employer containing their National Insurance number and name, such as a P45, P60, National Insurance number card or official letter **and**
- a full UK birth or adoption certificate; **or**
- a certificate of registration or naturalisation as a British citizen.

Q7 What should I do if someone I want to employ cannot provide the required evidence of their right to work?

A. The onus is on the person you wish to employ to provide you with the correct documentary evidence that they are allowed to do the job in question. While you should try to keep the job open for as long as possible to provide them with the opportunity to demonstrate their right to work, you are not obliged to if you need to recruit someone quickly.

Where you accept documents or combinations of documents to demonstrate the right to work which are not in prescribed by regulations and set out in the [Code of practice](#), you risk a civil penalty if it transpires that the employee is not permitted to undertake the work in question.

You can find out more information about how to avoid unlawful discrimination in our "[Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working](#)".

Q8 What should I do if I have concerns about the documents presented to me?

A. If you are not satisfied that the document belongs to the holder or you believe the document to be false or forged, you should not employ that person.

If you encounter an illegal worker or have any concerns about the validity of the documents presented to you, you should contact the Sponsorship, Employer and Educational Helpline on **0300 123 4699** for further advice. They will treat any information you provide in confidence. Information may be shared within the Home Office and with other Government departments, their agencies and local authorities. If you do not employ that person, you will not be liable for a civil penalty.

If the illegal worker is already employed by you, the Sponsorship, Employer and Education Helpline on **0300 123 4699** will provide you with an acknowledgement in the form of a unique number. If this number is obtained before we visit your business, it will become a mitigating factor in the calculation of the civil penalty liability in respect of that employee.

You may also consider contacting Crimestoppers anonymously on **0800 555 111** if you believe that a crime has been committed.

Q9 Can I do a right to work check by video link?

A. Yes. The holder could be with you in person or on a live video link. Even though you may be in contact with the person by live video link, the actual original documents must be in your physical possession. A scanned or faxed copy is not acceptable for the purposes of obtaining an excuse.

Q10 Should I keep the employee's original documents?

A. No. You should not keep anyone's original documents unless an individual gives you part 2 of a P45, as part of a combination of specific documents in [List A or List B](#).

Q11 For how long do I need to retain copies of the documents?

A. You must keep clear document copies for the duration of the individual's employment and for a further two years after they leave your employment. You should keep these securely in line with data protection requirements. They may be retained electronically in a format that can not be changed or in hard copy. In order to have a statutory excuse, you also need to record and retain for the same duration a record of the date on which you made the check. You can do this by dating the copy of the document.

You should also be able to produce these copy documents quickly in the event that you are requested to show them to us to demonstrate that you have performed a right to work check. If you can do so at the time we visit your premises, we will take no further action.

Q12 Does it matter if I lose or accidentally destroy copies of the documents?

A. Yes. You may only obtain a statutory excuse against payment of a civil penalty by copying the specified documents produced for the right to work check, dating and retaining those copies, and being able to produce these if requested to do so.

If you are found to be employing an illegal worker and you are unable to produce evidence of right to work checks, you may be liable for a civil penalty. If you maintain that you have lost or accidentally destroyed the evidence of having undertaken right to work checks, we may take into account your past practice in complying with right to work checks when considering the penalty.

If you lose or accidentally destroy the copy documents during the course of the employment, we suggest that you take further copies and record when the original check was performed and when the check was subsequently performed.

Q13 How can I comply with the Data Protection Act?

A. The Data Protection Act 1998 requires that data is stored for no longer than necessary. Our [guidance](#) is consistent with the law in this area. You should keep document copies securely for the duration of the individual's employment and for a further two years after they leave your employment. You should then securely destroy them.

Q14 Why does liability to a civil penalty only apply to employees aged over 16?

A. The law on the prevention of illegal working is set out in the Immigration, Asylum and Nationality Act 2006. This states that it only applies to those who are aged 16 and over.

Q15 Do all documents for right to work checks have to be current?

A. From 16 May 2014, the following documents must be current i.e. have not expired at the time the check is made to provide an excuse:

- Biometric Residence Permits;
- Immigration Status Documents;
- Passports of non EEA migrants unless it contains a current Residence Card; and
- Residence Cards (including Accession Residence Cards and Derivative Residence Cards) issued to non EEA family members of a national of an EEA country or Switzerland. However, where these are endorsed in a passport, that passport does not have to be current.

Q16 Does an Indefinite Leave to Remain (ILR) stamp have to be in a current passport?

A. Yes, in respect of checks made on or after 16 May 2014.

Q17 Why does an ILR stamp have to be in a current passport?

A. In May 2014, the Government amended the regulations governing right to work checks to prevent illegal working in the UK. This followed a public consultation on ways to strengthen and simplify controls on the employment of illegal workers and to make it easier for employers to conduct these checks. The changes included reducing the range of documents for checking purposes, with a greater reliance on more secure and current forms of documentation.

Since May 2014, endorsements, including those for indefinite leave to remain (ILR) are therefore required to be in documents which have not expired. This is to enable the Home Office to remove a raft of insecure immigration documents and replace them with secure Biometric Residence Permits (BRPs). This in turn will assist the holders of BRPs to demonstrate their entitlements to work, benefits and public services more easily.

Anyone whose documents are no longer valid may make an application to the Home Office to upgrade their older form of immigration documentation. Guidance on making these applications is available [here](#).

The individual does not have to wait until the outcome of the application before being able to demonstrate a right to work. You may contact the Home Office's [Employer Checking Service](#) to verify that someone has made an application for a BRP and has the right to work, so employment can commence without delay. Further information is available [here](#).

Q18 Can I accept a British passport for a right to work check that has time expired?

A. Yes. However, you are still required to check that the document belongs to the person presenting it to you - your employee or potential employee. You should check it carefully and satisfy yourself that the passport photograph is of your employee or prospective employee. If you are in doubt, request additional evidence to substantiate the work entitlement. Alternatively, if appropriate, ask for their full UK birth certificate and appropriately documented National Insurance number.

Q19 What are Biometric Residence Permits?

A. Biometric Residence Permits (BRPs) are biometric immigration documents that are already issued in the UK to migrants granted permission to remain in the UK for more than six months. Between March and the end of July 2015, we are gradually rolling out BRPs to migrants overseas granted permission to enter the UK for more than six months, replacing the UK visa. They are issued with a vignette (sticker) in their passport which will be valid for thirty days to enable them to travel to the UK. Following their arrival, they will have 10 days to collect their BRP from the Post Office branch detailed in their decision letter. For most migrants granted permission to be in the UK, the BRP will be the document that proves they have permission to work in the UK.

BRPs are credit-card sized immigration documents that contain a highly secure embedded chip and incorporate sophisticated security safeguards to combat fraud and tampering. They provide evidence of the holder's immigration status in the UK. They contain the holder's unique biometric identifiers (fingerprints, digital photo) within the chip, are highly resistant to forgery and counterfeiting, display a photo and biographical information on the face of the document and details of entitlements, such as access to work and/or public funds. BRPs therefore provide employers with a secure and simple means to conduct a right to work check.

The BRP will not demonstrate a right to work after the card has expired. Further detail about Biometric Residence Permits may be found [here](#).

Q20: Can someone work in the UK before they collect their BRP?

A: Migrants permitted to work in the UK are strongly encouraged to collect their BRP before they start work. If they need to start work prior to collecting their BRP, they will be able to evidence their right to work by producing the short validity vignette in their passport which they used to travel to the UK. However, as this will expire 30 days from issue, the check will have to be repeated using the BRP for the statutory excuse to continue.

Q21: If someone starts working on the basis of the 30 day vignette and does not collect the BRP, when the vignette expires must that person stop working?

A. The employer is not required to immediately terminate the employment where they believe the employee continues to have the right to work. However, once the 30 days has expired, you will not be able to establish a statutory excuse if it transpires that the employee is working illegally. You will also not know when the employee's permission to work expires. Without the BRP, an individual will have no evidence of their right to be in the UK and their right to work here. They will also not be able to travel in or out of the country.

Also, by not collecting the BRP, the employee is breaching regulations requiring them to collect it. A number of sanctions against an individual could be taken by the Home Office, including civil penalty and varying or ending their permission to be in the UK.

3: Immigration control

Q22 Who is not subject to UK immigration control?

A. The following categories of individuals are not subject to UK immigration control. You may therefore employ them without restriction:

- British citizens;
- Commonwealth citizens and citizens of the UK and Colonies with the right of abode in the UK;
- Nationals from the Common Travel Area (Ireland, Isle of Man and the Channel Islands);
- Nationals from European Economic Area (EEA) and Switzerland (except for Croatian nationals (until 30 June 2017); **and**
- Non EEA family members of nationals from EEA countries and Switzerland, if the EEA national is lawfully residing in the UK.

You should still conduct a right to work check on someone who claims to belong to one of the above groups. In the event that you do not obtain an acceptable document, and you are found to have employed an illegal worker, you will not have a statutory excuse against liability for a civil penalty. You will also avoid unlawful discrimination, by undertaking document checks on all prospective employees irrespective of their race, accent, place of birth or apparent nationality.

Q23 Many British citizens do not have a UK passport or a full birth certificate, so why is the short birth or adoption certificate not acceptable to demonstrate the right to work?

A. A full birth or adoption certificate gives additional information which is absent from the short birth certificate, for example it provides: the names of the holder's parents or adopted parents, their occupation and address at the time of the individual's birth or adoption. This information may be used to confirm personal details, if necessary, and check the authenticity of the document.

In England, a full birth certificate may be obtained from the [General Register Office](#) upon paying the prescribed fee (currently £9.25).

Q24 Can I accept a full UK birth certificate that has been issued outside the UK?

A. A full birth certificate issued by a UK diplomatic mission (British Embassy or British High Commission) will provide a statutory excuse if presented with an appropriately documented National Insurance number.

Q25 Can I accept a certified copy of a full UK birth certificate?

A. The General Register Office (GRO) and Registrars of Birth, Marriage and Death do not issue the “original certificate”. This remains in their possession. Instead, your own “original” birth certificate will in fact be endorsed as being “certified to be a true copy of an entry in a register in my custody” or contain words to the same effect. However, it has been issued by the GRO or a registrar and, as such, is considered an original certificate for the purpose of our regulations.

When, for example, a solicitor or notary public sees the original document, takes a copy and certifies this copy as “a true copy of the original”, then that certified copy will **not** provide an excuse.

Q26 How can an adopted person, who is a British citizen and who does not have a full birth certificate, demonstrate their right to work in the UK?

A. The full adoption certificate issued in the UK, which includes the names of one of the adopted parents, together with an official document containing the holder’s National Insurance number and name provide evidence of a right to work. A short adoption certificate issued in the UK is not acceptable.

Q27 Are members of the Armed Forces subject to immigration control?

A. If a person is serving in HM Forces full time then they will be exempt from immigration control. They may have an endorsement to this effect in their passport. However, an employer may wish to check with the Armed Force concerned whether this remains the case and whether the individual is entitled to work under their conditions of service (enlistment conditions). However, a member of HM Forces who is serving in the reserves force such as the Territorial Army is only exempt from immigration control whilst they are deployed (for example, when serving overseas or attending pre-deployment training); at all other times they revert back to the permission they had before deployment.

4: Documents which are not acceptable for proving a right to work in the UK

Q28 Since 16 May 2014, which documents no longer provide a statutory excuse?

A. The following documents no longer provide a statutory excuse:

- A UK issued travel document which is not itself a passport;
- Work permits; and
- General Home Office letters.

We have also specified that all documents belonging to individuals who are subject to immigration control which contain an expiry date must be current at the time the right to work check is conducted.

Q29 When will I not have a statutory excuse?

A. You will not have an excuse if:

- You have not conducted the prescribed right to work checks before employment commenced;
- You have accepted a document which clearly does not belong to the holder;
- You have accepted a document which clearly shows the person does not have the right to work/stay in the UK and/or do the job in question;
- The endorsement demonstrating work entitlement or the biometric residence permit has expired;
- You know you are employing someone who is not allowed to work in the UK, regardless of whether you have carried out checks;
- Your statutory excuse has expired; or
- You have not detected a 'reasonably' apparent forgery.

Q30 What is a 'reasonably' apparent forgery?

A. It will be reasonably apparent if an individual, who is untrained in the identification of false or forged documents, examining it carefully, but briefly and without the use of technological aids, could reasonably be expected to realise that the document in question is not genuine.

Advice on detecting forgeries is available [here](#).

Q31 Is a National Insurance number on its own sufficient evidence for the right to work?

A. No. A National Insurance number will only provide a statutory excuse when given to you in combination with one of the acceptable documents, as specified in the acceptable document lists [A and B](#) in the [guidance](#) such as a full UK birth certificate.

Q32 Why isn't a National Insurance number on its own sufficient to demonstrate a right to work?

A. The purpose of the National Insurance number (NINo) is primarily to link an individual's National Insurance contributions and credited contributions. The NINo is also used as a reference number for individuals within the social security system. It was neither intended, nor designed to be a tool for identifying or determining an individual's immigration status.

Not all NINo holders will be allowed to work in the UK and if they can work, they may be subject to conditions. You must check acceptable documents showing the NINo and name of the holder **together with** one of the combinations specified in [List A or B](#).

Q33 Will a Biometric Residence Permit (BRP) contain a NINo?

A. There will be a gradual rollout of the combined [BRP](#) and NINo for migrants who have the right to work in the UK, commencing with Tier 2 (skilled workers) main applicants who make an application in the UK.

Adding the NINo to the BRP will assist the employer in two ways. First, the BRP provides an employer with a secure and simple means of checking a migrant's right to work in the UK. Second, the provision of the NINo on the same document makes it easier for employers to meet their requirements to administer PAYE and national insurance.

Q34 If a document given to me is not on the list of acceptable documents, can I still check it?

A. No, you will need to check the documents as set out in [List A or List B](#). Seeing other documents, such as those below, will not constitute a right to work check and so you will not gain an excuse from a penalty. The following documents will not provide an excuse for a right to work check:

- a Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the UK;
- a short (abbreviated) birth or adoption certificate issued in the UK;
- a National Insurance (NINo) number when presented in any format on its own;
- a card or certificate issued by HM Revenue and Customs (HMRC) under the Construction Industry Scheme;

- a full or provisional UK driving licence issued by the Driver and Vehicle Licensing Agency (DVLA) or the Driver and Vehicle Agency (DVA);
- a licence provided by the Security Industry Authority;
- a document check by the Disclosure and Barring Service (formerly the Criminal Records Bureau);
- a document that has been certified as a true copy by a solicitor or notary public; or
- a bill issued by a financial institution or a utility company.

You may also see some passports which contain the word 'British' but which will **not** give you an excuse against liability for a civil penalty (unless it contains a certificate of entitlement or a relevant endorsement). These are:

- a British Visitor's Passport; **or**
- a passport that describes the holder as:
 - a British National (Overseas);
 - a British Dependent Territories Citizen;
 - a British Overseas Territories citizen;
 - a British Overseas citizen;
 - a British subject; or
 - a British protected person.

Q35 Can I accept a document that demonstrates that the migrant is entitled to work in Ireland, the Isle of Man or the Channel Islands (otherwise known as the "Common Travel Area").

A. You may accept a passport issued by a member of the Common Travel Area (CTA) or the combination of a birth or adoption certificate issued by a member of the CTA together with a UK issued National Insurance number. However, a travel document, which is not itself a passport, issued by a member of the CTA will not demonstrate a right to work.

Most work permits issued in the CTA are for a specified post, and as such, may not permit the holder to work in the UK. Indefinite Leave to Remain (ILR) granted in the CTA also permits the holder to work in the UK and you can establish an excuse by taking a copy of the appropriate parts of a current CTA document that establishes the ILR.

5: Definition of an employer

Q36 What is the definition of 'employer' for the purposes of illegal working provisions of the Act?

A. An 'employer' is defined as a person who employs an individual under a contract of employment. This may be a contract of service or apprenticeship, whether express or implied. The contract does not have to be in writing. It does not apply to those who undertake work for you with a genuine self employed status. In most cases, it should be clear when you are entering into such a contract of employment with an employee, and that you need to carry out the appropriate checks to have an excuse.

Q37 How do I know if someone is 'self-employed' or 'my employee'?

A. The criteria below should provide you with a guide as to your worker's status, although it is only a brief guide and does not cover every situation. For each relationship, the whole picture needs to be assessed in light of the facts.

If you can answer yes to the following questions, this would suggest that the worker is, or will be, your **employee**:

- Will you require the worker to carry out the service?
- Will you be able to control when and how the work is done, what tasks have to be done and where this will be performed?
- Will you supply the tools or other equipment needed to do the work?
- Will the employee be paid by the hour, week or month and receive overtime pay?

If, on the other hand, you can answer yes to the following questions; this would suggest that your worker is **self-employed**:

- Will the worker have the right to provide a substitute, or engage their own helpers?
- Will the worker decide whether or not to accept individual tasks and how to carry them out?
- Will the worker make their own arrangements for holidays or sickness absences?
- Will the worker be free to do the same type of work for more than one employer at the same time?
- Will the worker provide the main items of equipment needed to do the job in question?
- Will the worker have a real risk of financial loss?

The Department for Business, Innovation and Skills and HM Revenue and Customs provide further information on how to define who is an 'employer' and who is an ['employee'](#).

Where there is any doubt, we recommend that you check the person's right to work, rather than risk a civil penalty liability. You may also wish to take your own independent legal advice.

Q38 Am I responsible for checking whether my nanny or childminder is allowed to work in the UK?

A. Nannies are not usually classed as self-employed. Accordingly, as their employer, you are responsible for checking their right to work before you employ them and, if necessary, repeating this check if they have time limited permission to work.

Employing a child carer is different from engaging the services of a nanny. A childminder is responsible for setting their own hours of work, their own fees and conditions. You will not have to do the check if they are self-employed.

Q39 Am I defined as the 'employer' if I use an employment agency to recruit my staff?

A. This will depend on the nature of the relationship between you and your worker. If you use an employment agency to find new staff for you, but you employ those staff under a contract of service with you, you will 'employ' those people for the purposes of these illegal working rules and you are responsible for checking their right to work. In such circumstances, you cannot delegate the statutory check and will be liable for any penalty for illegal working.

If you obtain workers from an employment agency and it is apparent from all the facts and circumstances, that the nature of the relationship is such that they are not your employees, but rather they are employed by the agency, you will not 'employ' them for the purposes of these rules and you do not need to check their right to work. In such circumstances, the employment agency would be held liable for the civil penalty should they employ an illegal worker. However, you may still wish to check their right to work to prevent any reputational damage to your business by 'appearing' to be employing an illegal worker.

Employment agencies may find out more information on employment agency legislation from the Department for Business, Innovation and Skills at:

www.bis.gov.uk/policies/employment-matters

Q40 I provide payroll services for individual contractors including those working under a limited company. Do I have to perform the check?

A. The employer is responsible for undertaking the check. Payment of earnings or tax does not by itself make that person liable for a civil penalty for employing an illegal worker. Conversely, it does not entitle the entity paying the earnings or tax to apply for a Positive Verification Notice from the [Employer Checking Service](#) to confirm a right to work in certain circumstances

– only the employer can do this with the permission of the worker.

Q41 Who in an organisation is held liable for any illegal workers found to be working there?

A. The ‘employer’ will be subject to a civil penalty and it will depend on the circumstances of each case who that might be. It may, for example, be a named individual, a company, each partner in a partnership or any person purporting to act in such a capacity. If it is a corporate body, then that body itself may be liable. Anyone working for the company may also be found liable.

Q42 What do I need to do if I acquire staff as the result of a TUPE transfer?

A. The Transfer of Undertakings (Protection of Employment) (TUPE) transfer regulations 2006 (as amended) provide that checks carried out by the transferor (the seller) are deemed to have been carried out by the transferee (the buyer). As such, the buyer will obtain the benefit of any statutory excuse obtained by the seller. So, in theory, the transferee does not have to conduct checks.

However, if the seller has not conducted the requisite checks, the buyer would be liable for a penalty if any employee is later found to be working illegally. Also, a check may be necessary in order to ascertain when any follow-up check should be carried out in respect of migrant members of staff.

Accordingly, since 16 May 2014, employers who acquire staff through a TUPE transfer are provided with a grace period of 60 days from the date of transfer in which to carry out the right to work checks. No such grace period exists for a subsequent follow-up check, where this is required.

Q43 I am an employer based in the UK and I wish to employ a non-EEA national based outside the UK. Do I need to check my employee’s right to work?

A. The law on illegal working only applies to an adult who is “subject to immigration control.” Therefore, if your company has a base in the UK but your employee is not in the UK, he or she is not subject to UK immigration control and you are therefore not required to conduct right to work checks. If, however, your employee will be required to carry out some of their duties in person in the UK, you should ensure that your employee is allowed to work in the UK if you wish to have an excuse against payment of a civil penalty. You must undertake this check before they undertake any work for you in the UK.

[See also this question.](#)

Q44 Do I need to check contractors and sub contractors?

A. If the employer is contracting out specific jobs or services for

individuals (contractors and sub-contractors), there is no need for a right to work check when they are not being employed by the employer. However, you may still wish to check their right to work to prevent any reputational damage to your business by 'appearing' to be employing an illegal worker.

6: Employing asylum seekers

Q45 Can I employ someone who has made an asylum claim?

A. Asylum claimants are issued with an Application Registration Card (ARC) to acknowledge that they have claimed asylum. Usually asylum claimants are not permitted to work. However, some asylum claimants may be granted permission to work by the Home Office and, if so, the ARC will state that work is permitted. The ARC will generally state that employment is only permitted in a job on the Shortage Occupation List. This list may be viewed or downloaded from our [website](#).

When the ARC indicates that work is permitted, the employer must still verify that the work is permitted through the [Employer Checking Service](#) in order to obtain an excuse against a penalty liability. It will also confirm that the ARC is authentic and valid. This excuse will expire six months from the date of the Positive Verification Notice when a further check must be undertaken, if the statutory excuse is to be retained.

Q46 I am already employing an asylum seeker, who I employed on the basis of seeing their SAL or IS96W. Should I ask for an Application Registration Card (ARC) or conduct ongoing checks?

A. If they were in continuous employment with you prior to **1 May 2004** and had permission to work at that time, you do not have to repeat the check. However, if they were first employed after this date, the SAL or IS96W (which are forms issued by the Home Office) will not provide a statutory excuse. An asylum seeker permitted to work may demonstrate the right to work through a work permitted ARC which has been verified by the Home Office [Employer Checking Service](#).

Q47 How does a migrant who has been granted asylum (a refugee) demonstrate their work entitlement?

A. A refugee may demonstrate their work entitlement through their Biometric Residence Permit or Immigration Status Document. When the Immigration Status Document indicates that the holder has limited permission to be in the UK, the check must be repeated to retain the excuse. All Biometric Residence Permits are time limited.

7: Employing workers from the European Economic Area

Q48 Can I accept an identity card from any EEA member state in order to have an excuse against liability to pay a civil penalty?

A. If your prospective employee presents you with an identity card, you must check that this describes the holder as a **national** or **citizen** of the relevant EEA country or Switzerland.

Some EEA countries issue identity cards to individuals who are resident in their country, but who are not nationals. Their identity cards will clearly state that they are not nationals of the EEA country concerned, and will not demonstrate their right to work in the UK or give you an excuse against liability for a civil penalty.

If you have any doubts about whether an identity card allows the holder to work or rightfully belongs to them, you should ask that person to produce their national passport. It remains your responsibility to establish that the card is a national identity card even if it is written in a language other than English. You can find further information about documents from EEA countries from the Council of the European Union [website](#).

Q49 How may a Croatian national demonstrate a right to work?

A. If the worker is a national of Croatia, and is not also a national of another Member State, you will need to check that he/she holds an **accession worker authorisation document** which authorises the employment in question, a blue registration certificate which includes a statement that the holder has unconditional access to the labour market or otherwise can demonstrate an entitlement to work in the UK. Whilst the blue registration certificate is not mandatory (unless the exemption is based on being highly skilled), a Croatian may need to demonstrate that they are exempt in other ways such as showing that they have worked lawfully in the UK for a continuous period of 12 months.

Croatian students will hold a yellow registration certificate which will confirm that they are permitted to work 20 hours per week during term times and full time during periods of vacation. A separate Code of practice is available [here](#).

Q50 What is a Permanent Residence Card and a Residence Card?

A. Residence Cards are issued to family members of EEA or Swiss nationals who are not themselves EEA nationals but who have free movement rights in the UK by virtue of their relationship with the EEA or Swiss national who is also in the UK and exercising EU Treaty rights. Residence Cards take the form of an endorsement placed in the non-EEA national's passport or a standalone Residence Card when the passport is not available. Since 6 April 2015,

Permanent Residence Cards, Residence Cards (excluding Accession Residence Cards) will be issued in a biometric format.

The Residence Card is issued with a validity of five years when the check will have to be repeated in order for the excuse to be retained. Permanent Residence Cards are issued for periods of 10 years and will provide a statutory excuse for the whole duration of your employee's employment.

When the Residence Card (including an Accession Card and a Derivative Card) is endorsed in a non EEA passport, the Card may provide an excuse providing it is current and belongs to the holder even if the passport has expired when the check is performed.

Q51 What are Residence Cards in a biometric format?

A. From 6 April 2015, we started issuing Residence Cards (including Permanent Residence Cards and Derivative Residence Cards) for non EEA family members in a biometric format. From this date we stopped issuing the old vignette in the passport or standalone document, though these will continue to be acceptable documents for the purpose of right to work checks.

The new Residence Cards (biometric format) closely resemble [Biometric Residence Permits](#). They are of a standard credit card size and contain the holder's digital image, name and signature, date and place of birth, nationality, gender, expiry date of card, place of issue, type of residence card (category of residence) and a unique number. They will also contain a biometric chip. The cards are more secure against forgery and abuse and therefore provide a helpful means to employers to conduct a right to work check.

A sample Residence Card (biometric format) may be found in '[Acceptable right to work documents; an employer's guide](#)'. Accession Residence Cards will not be issued in a biometric format.

Q52 With the roll out of Residence Cards (biometric format), will other forms of Residence Cards remain valid?

A. Current Residence Cards which are endorsed in passports or are standalone documents will continue to be valid and acceptable for the purpose of right to work checks until they time expire. If the migrant wishes to make another application for a Residence Card (excluding accession cards), if successful, it will be issued in a biometric format. Accession Cards will continue to be endorsed in passports.

Q53 Can a non-EEA national who was formerly a family member of an EEA national maintain their right to work in the UK?

A. When a non-EEA national is no longer the family member of an EEA or Swiss national who is exercising EU Treaty rights in the UK, for example, due to the grant of a decree absolute on divorce, they would usually stop having a right of residence in the UK under EU law. This is because a non-EEA

national family member gains their right of residence and access to the UK labour market through residing with their EEA or Swiss family member in the UK. However, there are exceptional circumstances where EU law permits a family member to retain or keep their residence rights after the relationship ends. A Residence Card issued to a family member who has a 'retained right' is issued with a validity of five years when the check will have to be repeated in order for the excuse to be retained.

Q54 My prospective employee holds a Residence Card which has time expired but has made an application for leave to remain in the UK on the basis of long residence. How may he demonstrate a right to work?

A. Even though an application for long residency has been made, if the migrant remains a non-EEA family member of an EEA national exercising EU Treaty rights in the UK, he or she may make an application for a new Residence Card, and, if granted, may demonstrate a right to work through a work permitted Certificate of Application whilst the application for a new Residence Card is being determined.

Q55 What is a Certificate of Application?

A. Where a non-EEA national applies for a Residence Card or a Derivative Residence Card, the Home Office will issue them with a Certificate of Application. An application for a Residence Card (biometric format) or Derivative Residence Card (biometric format) will from 6 April 2015 only be considered valid at the point at which the applicant successfully provides their biometric information (finger scans and digital photograph of their face). Applicants who fail to provide their biometric information will not have made a valid application and therefore have no entitlement to a Certificate of Application.

Once the applicant has successfully provided their biometric information they will be issued with a Certificate of Application. For those that meet the qualifying conditions, the Certificate of Application will state that the individual has a right to work in the UK whilst their application for documentation is being considered. This Certificate of Application will only give you an excuse if it is less than six months old once verified by the Home Office [Employer Checking Service](#) that the holder is permitted to work through the issue of a Positive Verification Notice. The excuse will only last six months from the date of the Notice.

Q56 What are the qualifying conditions for a Certificate of Application?

A. Where the application is made by a [direct family member](#) who has successfully enrolled their biometric information and has submitted

1. Their valid passport;
2. The valid EEA passport or national identity card for the EEA national;
3. Evidence of relationship to their EEA national; and

4. Evidence that the EEA national is exercising Treaty rights or has acquired permanent residence

the applicant will be issued with a Certificate of Application which states that the individual has a right to work in the UK whilst their application for a Residence Card or Derivative Residence Card is being considered. This Certificate of Application will only give you a statutory excuse if it is less than six months old and is accompanied by a Positive Verification Notice issued by the Home Office's [Employer Checking Service](#) stating that the holder has permission to do the work in question. The excuse will last for six months from the date of the Notice.

Those applicants who are not direct family members or who do not provide the required documents will not receive a Certificate of Application that states that work is permitted. If you are presented with a Certificate of Application that does not state that work is permitted, this will not demonstrate a right to work and the Employer Checking Service will provide a Negative Verification Notice.

Q57 What do I do if I am presented with a Certificate of Application which is more than six months old?

A. If the employee or potential employee's Certificate of Application is more than six months old, but the individual's application for a Residence Card or Derivative Residence Card has not been finally determined, they can apply to the Home Office for a replacement Certificate of Application which will again be valid for six months. If work has been permitted, this work entitlement will be verified by the [Employer Checking Service](#) through a Positive Verification Notice.

Q58 What is a Derivative Residence Card?

A. Derivative Residence Cards are issued to non EEA nationals who have a right to live and work in the UK in order to enable another EEA national to live here, for example, the non-EEA parent of an EEA child. These rights only arise in a limited range of circumstances and when the relevant conditions are met. The Card will time expire, normally after five years, and the check must then be repeated in order that the excuse may be retained. Since 6 April 2015, these will be issued in a biometric format.

Q59 What is an Accession Residence Card?

A. Accession Residence Cards are issued to family members of Croatian nationals who are subject to worker authorisation in the UK under the transitional controls which were put in place when Croatia joined the European Union in 2013. These are not issued in a biometric format.

Q60 What do I need to do if I wish to employ a Croatian national?

A. Since Croatia joined the European Union on 1 July 2013, Croatian

nationals have been subject to transitional restrictions on taking employment in the UK. Unless they are exempt from the requirement to do so, Croatian nationals will normally need to be in possession of a worker authorisation document authorising their employment. This will take the form of [List A or List B](#) documents granted before 1 July 2013 or an accession worker registration certificate issued after that date.

You may be liable to payment of a penalty if you employ a Croatian national who is not exempt from worker authorisation and is not in possession of a worker authorisation document authorising the holders' employment with you. You will be excused from payment of such a penalty if the worker produces to you:

- a worker authorisation document authorising the employment in question;
- an EEA registration certificate which contains a statement that the holder has unconditional access to the labour market (i.e. is exempt from worker authorisation); or
- a passport, national ID card or other travel document which shows that the worker is exempt from worker authorisation by virtue of the fact that they are also a national of another EEA Member State.

You may also commit a criminal offence if you knowingly employ a Croatian national who does not have permission to undertake the employment in question.

Q61 In what circumstances will a Croatian national be exempt from worker authorisation?

There are a number of circumstances when they will be exempt:

- Croatian nationals will become exempt from worker authorisation if they have been working legally and continuously in the UK for a period of 12 months;
- Croatian nationals may be exempt where they are the spouse or partner of a UK or other EEA national or of a Croatian national who is exercising a legal right to reside;
- Croatian nationals may be granted exemption from worker authorisation requirements on the basis that they are highly skilled; or
- Croatian nationals who are the subject of a posting within the meaning of the Posted Workers Directive may be exempt.

More information is [here](#).

8: Employing students

Q62 Are international students, from outside the EEA, allowed to work while they study in the UK?

A. Students under Tier 4 from outside the European Economic Area (EEA) are allowed to take limited employment in the UK during term time and can work full time during vacations, providing their conditions of entry to the UK permit this. The limits on a student's working hours will be clearly indicated by the passport endorsement or BRP. Some non-EEA national students are not allowed to work at all.

However, short-term students are not allowed to work or study a course that includes a work placement.

Q63 Is there a requirement to record the academic term and vacation times for migrant students who are permitted to work in the UK?

A. Yes, since 16 May 2014 when conducting checks, if you are presented with documents indicating that the holder is a student with a limited right to work in the UK during term time, you are required to obtain and retain evidence of their academic term and vacation dates.

We consider acceptable evidence originating from the education institution which is sponsoring the student to be one of the following:

- (i) A printout from the student's education institution's website or other material published by the institution setting out its timetable for the student's course of study, (you should check the website to confirm the link is genuine); or
- (ii) A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
- (iii) A letter addressed to you as the employer from the education institution confirming term time dates for the student's course.

You should obtain this evidence from the student. We would expect the evidence in (i) to be readily available for most students and therefore will be provided to you in most cases. In exceptional circumstances, for example where the student is following a course timetable which differs from that published, you may need to obtain specific evidence from the sponsor. It is important to remember that you must retain this evidence in order to be excused a liability for a civil penalty.

Q64 Are there any immigration restrictions on work placements?

A. Yes. Since 6 April 2012, a work placement has been an integral and assessed part of the course. There will generally be close cooperation between the educational provider and the employer, often covered by a formal agreement indicating the terms and conditions of the work placement and setting out what the student will be expected to do and how they will be assessed. You are strongly advised to retain a copy of this agreement.

Work placements are not the same as permission to work.

Q65 What employment restrictions apply to work placements?

A. A work placement is restricted to no more than one third of the total length of the course undertaken in the UK unless:

- the student is following a course at degree level or above and is sponsored by an Higher Education Institution (HEI),
- the student is following a course at degree level or above and is sponsored by an overseas HEI to undertake a short-term Study Abroad Programme in the UK; or
- the student is a Tier 4 (child) student aged 16 or above.

In these instances the work placement must **not** be more than half of the total length of the course.

Time on a work placement is not included within the permitted hours of work that a student may undertake during term times.

Q66 Can a non-EEA student with valid permission to be in the UK defer (postpone) their studies?

A. Students who have enrolled on a course may sometimes defer their studies for a variety of reasons, including ill health or accident. Their sponsor must report this to the Home Office who will consider curtailing (bringing to an end) their leave. If the leave is curtailed, the student must either leave the UK or apply for immigration permission to remain in the UK in a category appropriate to their circumstances.

Q67 What are the consequences of a student's permission to be in the UK being curtailed (cut short)?

A. A student will usually receive permission to be in the UK for the entire course of study, plus an additional period of time before and at the end of their course. During these periods at the start and end of the course, the student is permitted to work full time if they are allowed to work part time during term time. However, there will be occasions when the period of study cannot be completed.

In the event that the student's place of study closes or they stop studying with

their sponsor before the completion of their course, the student will normally have their permission to be in the UK curtailed (cut short) to 60 days. During this time they may find a new education provider and course and apply to the Home Office for further permission to stay. During this period of 60 days, a student may work full time provided their conditions of stay permit them to work, and may continue to do so until the point that their application is decided. If, after 60 days, the student has not applied for further permission, their existing permission expires and they will no longer have the right to work.

Q68 My student employee says he has completed his studies early. Can he work full time?

A. When a student finishes a course early, it does not mean they can stay and work for their remaining leave. Care should be taken in these circumstances. It could be that they have simply stopped studying or have had their student leave curtailed by the Home Office. As you would be liable for a civil penalty should they work in breach of their student conditions, you should not change their working hours from the published vacation guidelines published by the educational provider or as they otherwise independently verify.

In the event that a student informs you that they have completed their course early, the education sponsor is required to inform the Home Office and the student's permission to be in the UK will normally be curtailed to end earlier, in line with the new end date of their studies. During this time the student is permitted to work full time provided their conditions of stay permit them to work.

9: Outstanding applications, appeals or administrative reviews with the Home Office

Q69 How do I comply with the right to work checks if the person I want to employ has made an immigration application, or has appealed against or requested an administrative review of a Home Office decision and their documents are with the Home Office?

A. In these circumstances, to demonstrate a statutory excuse against a liability for a civil penalty, you can obtain a Positive Verification Notice from the [Employer Checking Service](#) confirming the person's right to work. This will last for six months from the date of the Notice. In respect of prospective employees, the Positive Verification Notice must be obtained before employment commences. Do not simply take your employee's word for it.

In respect of repeat checks on existing employees, if you are reasonably satisfied that your employee has an outstanding Home Office application, or pending appeal or administrative review to vary or extend their leave in the UK, your time-limited statutory excuse will continue from the expiry date of your employee's permission for a further period of 28 days. During this 28 day period, you must contact the [Employer Checking Service](#) to verify that your employee has an outstanding in- time application (that is, a new application which was made before permission to be in the UK expired), appeal or administrative review.

If you receive a Positive Verification Notice, your statutory excuse will last for six months from the date of the Notice. If you receive a Negative Verification Notice, your statutory excuse will be terminated and you may be liable for a civil penalty if the employment is not permitted and you continue to employ the worker. You may also be committing a criminal offence if you continue to employ the worker.

The Employers Checking Service should provide a result within five working days of your application. This can now be made electronically through the interactive tool "[Employer Checking Service Enquiries](#)".

Q70 What is an administrative review?

A. Administrative reviews have replaced many rights of appeal. Where a person applies for administrative review of a Home Office decision to refuse an in time application, any previous permission to work will continue during the period that an application for administrative review may be made under rule 34R(1) of the Immigration Rules; and, if made, will continue until the administrative review has been determined (decided or withdrawn). For decisions made in the UK, the review must be made within 14 days of notification of the decision and they will normally be determined within 28 days. This will be confirmed by a Positive Verification Notice from the Home Office [Employer Checking Service](#) which will demonstrate a statutory excuse for six months from the date of the Notice.

Q71 Can a worker who makes a late administrative review work?

A. Where an application for an administrative review is made out of time, we may decide to accept the administrative review as valid if satisfied that it would be unjust not to waive the time limit and that the application was made as soon as reasonably practicable. If so, any permission to work will continue **from the date** we accept that the administrative review is valid. The migrant will not be permitted to work between the date that their previous permission to work time expired and the date we decide that the administrative review is valid. The [Employer Checking Service](#) will confirm that work is permitted by issuing a Positive Verification Notice.

Further detail on administrative reviews may be found [here](#).

Q72 Can I obtain a Positive Verification Notice for a prospective employee who has an outstanding application for a UK passport or a passport issued by another country?

A. The Home Office [Employer Checking Service](#) cannot verify whether an application for a new UK passport is outstanding. In such circumstances, the prospective employer may demonstrate a work entitlement through an expired UK passport or the combination of a full UK birth certificate together with an appropriate NINo.

The Employer Checking Service is also unable to verify applications for passports made to other countries.

Q73 How do I contact the Employer Checking Service?

A. In order to obtain a Positive Verification Notice, employers simply have to complete an Employer Checking Service Enquiries request online and submit the request to the Home Office Employer Checking Service electronically. The Employer Checking Service may be found [here](#).

Employers will still have to obtain the consent of their employee or prospective employee before making the Employer Checking Service request.

Q74 What should I do if my employee cannot demonstrate a continued right to work?

A. When you perform a repeat right to work check of an existing employee whose limited right to work in the UK has expired, if they are unable to demonstrate an ongoing right to work, you risk a civil penalty if you continue to employ them and they are no longer permitted to undertake the work in question.

Whilst a matter of employment law and the terms of the employment contract, employees suspended from work or sent on “gardening leave” generally continue to be employees of the employer and, if so, continue to put the employer at risk of a civil penalty if they are not permitted to work.

Q75 My employee tells me that he has won his appeal. Is he entitled to work for me?

A. You should check the position carefully. If the migrant succeeds at appeal, it is possible that some sort of leave may be granted. However, the migrant may still be subject to conditions that prohibit him from undertaking the work you are offering. Until the migrant can present satisfactory immigration documents demonstrating his status, a Positive Verification Notice (which lasts for six months) must be obtained from the [Employer Checking Service](#) in order to retain the excuse.

10: Further questions

Q76 Am I liable for a civil penalty if I allow someone who does not have the right to work in the UK to work voluntarily?

A. The legal distinction between an employee and a volunteer can be quite complex and we would not wish to give advice which might lay voluntary organisations open to prosecution for employing people illegally. Therefore, we strongly recommend that organisations seek independent legal advice for their specific volunteering activity.

Q77 Does the requirement to show a combination of National Insurance number and a birth certificate discriminate against British Citizens who have been or are in the process of gender transitioning? The requirement may cause problems for a person in this situation.

A. We accept that being given a National Insurance number and a second document, such as a full birth certificate, may present problems for an individual who is undergoing, or who has completed the process of gender transitioning. However, it is possible for a UK national to obtain a UK passport with their new identity, and checking this single document will provide your excuse.

Q78 What is the purpose of the [“Code Of Practice On Preventing Illegal Working: Civil penalty scheme for employers”](#)?

A. This Code, approved by Parliament, provides detailed guidance on how an employer may establish and retain a statutory excuse against a penalty liability. It also indicates how liability for a civil penalty will be determined and any penalty amount calculated.

Q79 What is the purpose of [“The Code Of Practice For Employers: Avoiding Unlawful Discrimination While Preventing Illegal Working”](#)?

A. You should not make assumptions about a person’s right to work in the UK or their immigration status on the basis of their colour, nationality, ethnic or national origins. The best way to ensure that you do not discriminate is to treat all job applicants fairly and make the same document checks. Please refer to the “Code of practice for employers: Avoiding unlawful discrimination while preventing illegal working” which has been approved by Parliament. In so doing, you will also ensure that you do not unlawfully discriminate

Annex A

Lists of acceptable documents for right to work checks

List A	
Acceptable documents to establish a continuous statutory excuse	
1	A passport showing 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 UK.
2	A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4	A Permanent Residence Card issued by the Home Office to the family member of a national a European Economic Area country or Switzerland.
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 full birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder's parents or adoptive parents, 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.
9	A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, 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.
10	A certificate of registration or naturalisation as a British citizen, 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.



Home Office

List B

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

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|---|--|
| 1 | A current passport endorsed to show that the holder is allowed to stay in the UK and is currently 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 UK and is allowed to do the work in question. |
| 3 | A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence. |
| 4 | 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. |

Group 2 – Documents where a time-limited statutory excuse lasts for 6

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|---|---|
| 1 | A Certificate of Application issued by the Home Office under regulation 17(3) or 18A (2) of the Immigration (European Economic Area) Regulations 2006, to a family member of a national of a European Economic Area 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. |
| 2 | 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. |
| 3 | 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. |