

## Right to work

### Background

1. Nationals from European Union (EU), European Economic Area (EEA) countries and Switzerland, can enter and work in the UK without restrictions, the same as British citizens. Often their passport or identity card will be sufficient evidence to confirm their identity and right to work (RTW) in the UK.
2. The same applies for the family member of a named national from the EEA or Switzerland who is resident in the UK.
3. Croatia joined the EU on 1 July 2013. Croatian nationals are subject to employment restrictions, see Croatian Nationals
4. Non-EU/EEA nationals must have permission from the Home Office (HO) to work in the UK. This must be provided in support of their application for a NINo, along with evidence of their identity.
5. NINo applications must be accompanied with evidence of a RTW in the UK.
6. It is the applicant's responsibility to provide evidence of their identity and their RTW in the UK, before a NINo can be allocated. If they have documentary evidence but have not provided it with their application, they should be given an opportunity to provide the evidence before the application is processed at the NINo Centre (NC).

### Documents which prove right to work

7. The following are the most common documents which can be presented as evidence of right to work (RTW) (as per Home Office's Right to Work Checklist). Applicants must provide original documents from either List A or List B at their EOI interview. If they do not have the original document an explanation must be provided at Part 4 of the CA5400 application form.

#### List A

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

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

A Registration Certificate or Document certifying Permanent Residence issued by the Home Office, to a National of an European Economic Area country or Switzerland.

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

A current Biometric Immigration Document (Biometric Residence Permit) issued by the HO to the holder which indicates that the person named in it is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.

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

A current Immigration Status Document issued by the HO to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, when produced with an official document giving the person's name issued by a government agency or a previous employer.

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, when produced with an official document giving the person's name issued by a government agency or a previous employer.

A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, when produced with an official document giving the person's name issued by a government agency or a previous employer.

A certificate of registration or naturalisation as a British citizen, when produced with an official document giving the person's name issued by a Government agency or a previous employer.

#### **List B – Group 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.

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

A current residence card or document (including an Accession Residence Card or a Derivative Residence Card) issued by the HO to a family member of a national of an EEA country or Switzerland or who has a derivative right of residence.

A current Immigration Status Document containing a photograph issued by the HO to the holder with a valid endorsement indicating that the person named in it can stay in the UK, and is allowed to do the type of work in question, when produced with an official document giving the person's name issued by a government agency or a previous employer.

#### **List B – Group 2**

A certificate of application issued by the HO to a family member of a national of an EEA country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old when produced in combination with evidence of verification by the HO employer checking service.

An Application Residence Card issued by the Home Office stating that the holder is permitted to take the employment in question when produced in combination with evidence of verification by the HO employer checking service.

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

### **Exemptions to providing right to work documentation**

8. There are exemptions, where a Croatian national is not required to obtain a Purple Accession Worker Registration Certificate as evidence of their right to work (RTW) in the UK.
9. They must still satisfy the NINo allocation criteria and provide evidence of their RTW exemption, see Croatian nationals.
10. Those exempt from worker authorisation requirements will be able to obtain a Blue Accession Registration Certificate confirming their exemption status, but are not required to do so.

### **Zambrano judgement**

11. This judgement creates a right to reside and work for a sole carer of a dependent British citizen when that carer has no other right of residence in the UK and removing the carer from the UK would mean the British citizen would have to leave the EU.
12. If the HO documentation presented is a certificate of application, the decision maker at the NINo centre (NC) must complete a verification check with the evidence and enquiry unit (E&EU) at the HO as per the E&EU form guidance notes. See more detail in Non-EEU/EA Processing instructions
13. The subject line of the email must be completed as 'Official - EEREQUEST' see DWP Guidance - Protective Marking and Secure Handling of Information.

Note: Any other format will result in further staff intervention and could delay the HO response time. See the guidance notes on the E&EU form for the correct email address to use.

Any decision on a NINo will be based on the documents presented and the check being returned to the originators email account from the HO with the correct information included.