



# **SUMMARY GUIDE FOR EMPLOYERS ON** PREVENTING ILLEGAL WORKING IN THE UK

April 2012



# CONTENTS

|  |    |
|--|----|
| <b>Who should read this guide?</b> .....                                       | 3  |
| <b>Complaints</b> .....  | 3  |
| <b>1. Why is preventing illegal working so important?</b> .....                | 4  |
| <b>2. What is the law and my duty as an employer?</b> .....                    | 5  |
| <b>3. How do I carry out right to work document checks?</b> .....              | 6  |
| <b>4. When should I use the Employer Checking Service?</b> .....               | 9  |
| <b>5. Who can I employ?</b> .....  | 10 |
| <b>6. Where can I find more information?</b> .....                             | 13 |
| <b>List A – Documents which show an ongoing right to work</b> .....            | 14 |
| <b>List B – Documents which show a right to work for up to 12 months</b> ..... | 16 |
| Documents that are not acceptable for showing right to work .....              | 17 |
| <b>Annex A – Employers Right to Work Checklist</b> .....                       | 18 |

## WHO SHOULD READ THIS GUIDE?

This guide is about preventing illegal working in the UK. It is aimed at employers and Human Resources (HR) staff involved in recruiting people. It contains important information and advice. It summarises:

- the law on illegal working;
- your role and duty as an employer;
- the document checks you should carry out;
- the various documents you could be given;
- the various types of immigration statuses held by people; and
- the consequences if you do not carry out your duty and we find you employing an illegal worker.

You should read this guide in conjunction with our 'Full guide for employers on preventing illegal working in the UK'.

You can find our full guide together with important updates and information on preventing illegal working on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

When we refer to 'we' or 'us' in this guide we mean The UK Border Agency. When we refer to 'you' or 'your' this means the employer.

## COMPLAINTS

If you are unhappy about any aspect of our service you can use our complaints procedure. More information about this is on our website at: [www.ukba.homeoffice.gov.uk/aboutus/contact/makingacomplaint/](http://www.ukba.homeoffice.gov.uk/aboutus/contact/makingacomplaint/)

# 1. WHY IS PREVENTING ILLEGAL WORKING SO IMPORTANT?

Illegal working has harmful social and economic effects on the UK; it undercuts British businesses and their workers that stay within the law and exploits migrant workers. As long as there are opportunities for illegal working the UK will be an attractive place for illegal migrants. That is why we need to put a stop to employers breaking the law by taking tough action against those who do so.

There is evidence that some workers employed illegally are paid less than the minimum wage, do not pay tax, and may be doing dangerous work that breaks health and safety regulations. Employers who use illegal workers may do so because they want to avoid providing minimum standards, such as the National Minimum Wage and paid holidays. This is harmful to the workers involved and enables dishonest employers to gain an unfair advantage over competitors who operate within the law.

We work closely with employers to raise awareness of their responsibilities in tackling illegal working to ensure that people with no right to work in the UK cannot obtain work here. We take robust action to deal with those who attempt to work in the UK unlawfully and we take tough action against employers who use illegal workers.

We carry out regular, intelligence-led operations (often in partnership with other agencies and partners such as Trading Standards, Health and Safety Executive and HM Revenue and Customs) to target illegal working, with the aim of removing the most harmful people from the UK first. Any person found working illegally is liable to prosecution and, or removal from the UK.

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You are breaking the law if you employ a person who does not have the right to work in the UK.  
You can be fined up to £10,000 for each illegal worker or face criminal prosecution.

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## 2. WHAT IS THE LAW AND MY DUTY AS AN EMPLOYER?

The law on preventing illegal working is set out in sections 15 to 25 of the Immigration, Asylum and Nationality Act 2006 (known as the 2006 Act) which came into force on 29 February 2008. These rules replaced the previous ones under section 8 of the Asylum and Immigration Act 1996 (known as the 1996 Act).

The law is in place to:

- make it harder for people with no right to work in the UK to unlawfully gain or keep employment ;
- make it easier for you to ensure that you only employ people who are legally allowed to work for you; and
- strengthen the Government's controls on tackling illegal working by making it easier for us to take action against employers who use illegal workers.

Employing someone who is not allowed to work in the UK is illegal. As an employer you have a duty under the 2006 Act to carry out document checks on people to make sure they have the right to work in the UK **before** you employ them.

If you do not carry out these checks and you are found employing an illegal worker, we will take tough action against you. You could face a large fine, known as a civil penalty, under section 15 of the 2006 Act for up to £10,000 for each illegal worker. The amount that you are required to pay will be calculated using a sliding scale where several factors are taken into consideration, on a case by case basis. We have published a code of practice which will help you understand how we administer our system of civil penalties which you can find on our website:

[www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

If you correctly carry out the document checks required of you, you will have a legal excuse, known as a **statutory excuse**, against payment of a fine. However, if you **know** that you are employing a person who is not allowed to work in the UK then you could face criminal prosecution under section 21 of the 2006 Act for knowingly employing an illegal worker. If you are convicted in a Crown Court you may face up to 2 years imprisonment and, or an unlimited fine.

This duty applies to anyone who starts working for you on or after 29 February 2008. The previous rules under the 1996 Act continue to apply to staff that started working for you between 27 January 1997 and 28 February 2008

### WHO IS AN ILLEGAL WORKER?

An illegal worker is someone subject to immigration control, who is aged over 16 and who is not allowed to do the work in question.

## 3. HOW DO I CARRY OUT RIGHT TO WORK DOCUMENT CHECKS?

By carrying out document checks you will ensure that you only employ people who are legally allowed to work for you, and you will also have a **statutory excuse** against payment of a large fine if a person turns out to be an illegal worker.

To make sure you have an excuse there are four key things to remember:

- You will only have an excuse if you **correctly** carry out checks on **acceptable** documents **before** a person starts working for you by following the **3 step process**.
- If a person has a time limit on their right to work, you will only keep your excuse if you carry out repeat document checks **at least once every 12 months**.
- If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then you should make sure that you do not employ them in breach of these work conditions.
- You will not have an excuse if you knowingly employ an illegal migrant worker, regardless of any document checks you carry out before or during a person's employment.

Where a person's leave to remain and right to work in the UK is due to expire **within** 12 months of the date of your last repeat check then we recommend that you carry out a repeat check at the point of expiry to check if a person continues to have the right to work for you lawfully.

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You should carry out checks on **all** people **before** they start working for you to ensure you avoid discrimination. You should not make presumptions about a person's right to work in the UK on the basis of their background, appearance or accent. We have published a code of practice to help you comply with the law without discriminating against individuals. This can be found on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

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### WHAT DOCUMENTS ARE ACCEPTABLE?

The documents that are acceptable for proving someone has the right to work in the UK are split into two lists. These lists are called List A and List B. You should always refer to these lists to make sure that you ask for the right documents.

Any of the documents, or specified combinations of documents, described in List A show that the holder has an **ongoing** right to work in the UK. If you correctly carry out checks when List A documents are given to you, then you will have an excuse against payment of a civil penalty for the **duration** of that person's employment with you.

Any of the documents, or specified combinations of documents, described in List B show that the holder has a right to work in the UK for a **limited period of time**. If you correctly carry out checks when List B documents are given to you, then you will have an excuse against payment of a civil penalty for **up to 12 months** from the date of the check. You will only keep your excuse if you carry out repeat document checks at least once every 12 months.

You should note that the requirement for a properly documented National Insurance number **will only provide an excuse** when given to you in combination with one of the acceptable documents, as specified in Lists A and B.

You should not accept a National Insurance number on its own in any format as this does not provide acceptable evidence of right to work in the UK.

## WHAT IS THE 3 STEP PROCESS?

To avoid the risk of a civil penalty for employing an illegal worker you should follow Steps 1 – 3 below for every person you are looking to employ and every existing employee with a time limit on their right to work:.

### Step 1

You must ask for and be given one of the single documents, or specified combinations of documents from **List A or List B**.

**You must only accept original documents.**

### Step 2

For each document you must take reasonable steps to check that it is genuine and satisfy yourself that the person presenting it is both the rightful holder and allowed to do the type of work you are offering. You should do this by:

- checking any photographs are consistent with the appearance of the person; and
- checking any dates of birth listed are consistent across documents and that you are satisfied that these match up with the appearance of the person; and
- checking that the expiry dates of any limited leave to enter or remain in the UK have not passed; and
- checking any UK government endorsements (Biometric Residence Permits, stamps, stickers, visas) to see if the person is able to do, or can continue to do, the type of work you are offering; and
- satisfying yourself that the documents are genuine, have not been tampered with and belong to the holder; and
- asking for a further document in explanation if you are given two documents which have different names. The further document could, for example, be a marriage certificate or a divorce decree absolute, a deed poll or statutory declaration.

### Step 3

You must take a copy of the relevant pages of the document in a format which cannot later be altered, for example a photocopy or scan. In the case of a passport or other travel document, the following parts must be copied:

- The document's front cover and any page containing the holder's personal details; and
- Any page containing UK government endorsements showing their permission to be in the UK and their right to carry out the work you are offering.

You must copy all other documents in full; this includes both side of a Biometric Residence Permit.

We advise that you write on the copy of the document the date on which you took the copy.

You must then keep a record of every document you have copied. We recommend that you keep copies of the documents securely for the duration of the person's employment and for a further two years after they stop working for you. By doing this, we will be able to check whether you have complied with the law or if you are required to pay a civil penalty if we find anyone working illegally for you.

We recommend that you use our 'Employers Right to Work Checklist' at Annex A to help you make sure that you have correctly carried out all the steps required of you in your duty to prevent illegal working and to get and then keep an excuse.

### **WHAT ABOUT FORGED DOCUMENTS?**

If you are presented with a false document, you will only be required to pay a fine if the falseness is reasonably apparent, meaning you could not have been reasonably expected to realise that the document in question is not genuine. You will not have an excuse against a fine if you knew that the document, or documents, were false or did not rightfully belong to the holder.

### **WHAT IF SOMEONE IS NOT ALLOWED TO WORK IN THE UK?**

If you have carried out these checks and found that a person is not allowed to work, then you are entitled to refuse employment to that person. It is up to the person looking for work to show you that they are allowed to do the work you are offering.

### **WHAT IF AN EMPLOYEE REFUSES TO PROVIDE DOCUMENTS?**

Each case will be dependent upon the terms of the employment contract. You may wish to seek independent legal advice or report the individual to us by calling our Sponsorship and Employers' Helpline on 0300 123 4699 or emailing us at: [UKBApublicenquiries@ukba.gsi.gov.uk](mailto:UKBApublicenquiries@ukba.gsi.gov.uk).



## 4. WHEN SHOULD I USE THE EMPLOYER CHECKING SERVICE?

When you are carrying out the document checks there are certain circumstances when we require you to seek confirmation that a person has the right to work in the UK to get, and then keep, an excuse against payment of a civil penalty.

The role of our Employer Checking Service is to verify a person's right to work in the UK where an individual has:

- an outstanding application or appeal with us which was made at the correct time;
- presented an Application Registration Card (ARC) which states that the holder is allowed to work; or
- presented a Certificate of Application issued to or for a family member of an EEA or Swiss national which states that the holder is allowed to work.

In all these cases you must receive positive confirmation of a person's right to work from our Employer Checking Service before you employ them. You should keep copies of the documents relating to the check and the confirmation of right to work letter you receive from us to have an excuse for up to 12 months from the date of your confirmation letter.

To keep your excuse you must carry out repeat confirmation checks using our checking service **at least once every 12 months** and receive positive confirmation of the person's continued right to work. This will be for up to a further 12 months from the date of your confirmation letter.

Where a person's leave to remain and right to work is due to expire **within** 12 months of the date of your last check then we recommend that you carry out a repeat check at the point of expiry to check if a person continues to have the right to work for you lawfully.

To request confirmation of a person's right to work you should complete a request form which can be found on our website at: [www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/ecs/requestform](http://www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/ecs/requestform)

Once you have completed the form, making sure you have provided all of the information required, you should email it to us at: [Employerchecking@ukba.gsi.gov.uk](mailto:Employerchecking@ukba.gsi.gov.uk).

It is your responsibility to inform the person you are looking to employ or your existing employee that you may carry out a check on them with us.

## 5. WHO CAN I EMPLOY?

Whether a person is allowed to work in the UK, the type of work they are able to do and for how long will depend on their immigration status. We have placed work restrictions on nationals from certain countries and as an employer, it is in your interest to be aware of any conditions that may affect your lawful employment of a worker.

If a person has a restriction on the type of work they can do and, or, the amount of hours they can work, then you should make sure that you do not employ them in breach of these work conditions to avoid the risk of a civil penalty.

### WHO CAN I EMPLOY WITHOUT RESTRICTION?

The groups of people you can employ without restriction are:

- British citizens;
- Commonwealth citizens with the right of abode;
- Nationals from the Common Travel Area
- Nationals from European Economic Area (EEA) countries and Switzerland (except for Romanian and Bulgarian nationals who have restrictions placed on them)
- Family members of adult nationals from EEA countries and Switzerland, providing the EEA/Swiss national is lawfully residing in the UK.

You should not employ any individual purely on the basis that they claim to be a national of one of these groups. You should always ask for, check and take copies of acceptable documents to confirm their immigration status.

### EMPLOYING WORKERS FROM THE EUROPEAN ECONOMIC AREA

Nationals from the European Economic Area (EEA) countries and Switzerland can enter the UK without any restrictions. You should require EEA nationals to produce an official document showing their nationality, this will usually be either a national passport or national identity card.

You should be aware however that not all EEA nationals can work in the UK without restrictions. Bulgarian and Romanian nationals (known as EU2 workers) are free to come to the UK but unless exempt, they will be subject to worker authorisation. This means that they are only able to work in the UK if they hold a valid accession worker authorisation document or if they are exempt from authorisation.

Unless exempt EU2 workers will require authorisation before they begin working for you. You must ask to see evidence that they are exempt from worker authorisation in order to establish a defence against prosecution under the Accession (Immigration and Worker Authorisation) Regulations 2006. You should take a copy of the relevant worker authorisation document before the EU2 worker starts working for you.

A full list of the EEA countries where their nationals can enter and work freely in the UK, together with further information on the restrictions placed on Bulgarian and Romanian nationals, can be found in our Full guide for employers on preventing illegal working in the UK on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

## **SPONSORING WORKERS FROM OUTSIDE THE EUROPEAN ECONOMIC AREA**

If you want to employ workers from outside the European Economic Area (EEA) you will need to sponsor them. There are various routes (known as tiers) under which a person can apply to work in the UK. You must have a licence before you can sponsor skilled or temporary workers.

Licensed sponsors are responsible for ensuring that migrants comply with their immigration conditions, by keeping records on them and reporting any changes (such as a failure to turn up for work) to us. If you employ a sponsored worker in breach of the conditions attached to their right to be in the UK and, or, their right to work then you may face payment of a civil penalty.

You can find out more about sponsoring a non-EEA worker in our 'Full guide for employers on preventing illegal working in the UK' which can be viewed on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/) and on the Sponsoring non-EEA workers pages on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/points/](http://www.ukba.homeoffice.gov.uk/business-sponsors/points/)

## **EMPLOYING ASYLUM SEEKERS, REFUGEES AND THOSE GRANTED HUMANITARIAN PROTECTION**

Asylum seekers have made an application to be recognised as a refugee under the Geneva Convention, or have otherwise made an application for international protection. Asylum seekers do not normally have the right to work here and may only be lawfully employed if we have lifted restrictions on them taking employment.

If an asylum seeker is allowed to work they will hold a Home Office issued Application Registration Card stating one of the following:

- Allowed to Work
- Employment Permitted
- Work Restricted – SOL (which stands for Shortage Occupation List)
- Work Restricted – Student
- Work Restricted – Other

Some asylum seekers have restrictions on the type of work they can do. If an asylum seeker gives you a card stating that work is restricted then you should make sure that you do not employ them in breach of these restrictions. As well as checking and taking copies of a card stating that work is allowed, you will only have an excuse against a civil penalty if you have received positive confirmation of the person's right to work from our Employer Checking Service.

An asylum seeker whose claim is successful is granted refugee status. Where a person does not qualify for protection under the 1951 Geneva Convention but there are substantial grounds for believing that there is a real risk that if they were removed to their country of origin they would face serious harm, humanitarian protection is granted instead.

Refugees and those who have been recognised as requiring humanitarian protection will have no restrictions on the type of work they can do in the UK, as long as they continue to hold this qualifying status.

You can find out more about employing asylum seekers, refugees and those granted humanitarian protection in our 'Full guide for employers on preventing illegal working in the UK' which can be viewed on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

## **EMPLOYING STUDENTS**

Students from outside the European Economic Area (EEA) are permitted to take limited employment in the UK, providing their conditions of entry to the UK allow this. There are strict conditions on the type of work students can carry out and the hours they can work while they are studying in the UK. The limits on a student's working hours depend on when they applied for permission to come to, or stay in the UK, the type of course they study and the type of educational provider they are studying with.

If you are found employing a student in breach of their work restrictions then you may be liable to payment of a civil penalty.

Those studying here who have entered the UK as 'student visitors' are not allowed to work.

You can find out more about the work restrictions on non-EEA students in our 'Full guide for employers on preventing illegal working in the UK' which can be viewed on our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

## 6. WHERE CAN I FIND MORE INFORMATION?

If you would like further information or advice on complying with the law on preventing illegal working you should contact our:

### **Sponsorship and Employers' Helpline on 0300 123 4699**

The helpline is open Monday to Friday, between 9am and 5pm, except on Bank Holidays. Calls to the helpline may be recorded and used for training purposes.

You can also report any suspicions you may have about your employees' right to work in the UK or to carry out the work in question, by phoning our Sponsorship and Employers' Helpline. If your information is reported to our helpline before an illegal working immigration visit is made by our enforcement teams, any civil penalty amount that you may be liable for could be reduced. When reporting your suspicions you will be given a call reference and this must be referred to in any further correspondence you have with us. You can also call Crime stoppers on 0800 555 111.

### **FURTHER SOURCES OF INFORMATION**

You can find out more about the law on preventing illegal working and your duty as an employer on our website. We suggest that you check our website regularly for access to the most up-to-date information and important updates: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

We have published a 'Full guide for employers on preventing illegal working in the UK' containing important information and advice to help you understand the law and your duty. It describes in detail how to carry out the document checks as well as providing images of the documents considered acceptable for showing right to work.

We have also published two codes of practice booklets. One to explain how we administer our system of fines, known as civil penalties, and one on how to avoid discrimination when complying with the law.

The 'Full guide' and both codes of practice are available to download from our website: [www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

For advice concerning immigration issues you should contact our **Immigration Enquiry Bureau on 0870 606 7766**. The opening hours are Monday to Thursday, between 9am and 4.45pm, and on Friday from 9am until 4.30pm. Or you can email us at: [UKBApublicenquiries@ukba.gsi.gov.uk](mailto:UKBApublicenquiries@ukba.gsi.gov.uk)

# LIST A

## DOCUMENTS WHICH SHOW AN ONGOING RIGHT TO WORK

### Validity of passports and travel documents

You should, where possible, check current passports or travel documents which have not expired. However, if a person does not have one then you can accept evidence of their right to remain and work in the UK in an expired passport or travel document. It is crucial that you check that the stamp or endorsement in the document continues to allow the person to work by virtue of their status (i.e. their stay is indefinite) or the date of the end of their permitted stay has not expired.

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

**You should note however that there are two instances when this does not apply. A Certificate of Entitlement to the Right of Abode must be endorsed in a valid passport and a Biometric Residence Permit must not have expired to be considered acceptable as evidence of right to work.**

1. A passport showing that the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.
2. 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 or Switzerland.
3. A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a national of a European Economic Area country or Switzerland.
4. A permanent residence card issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the family member of a national of a European Economic Area country or Switzerland.
5. A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom, or has no time limit on their stay in the United Kingdom.
6. A passport or other travel document endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.
7. An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it is allowed to stay indefinitely in the United Kingdom or has no time limit on their stay in the United Kingdom, **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.

8. A full birth certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's parents, **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
9. A full adoption certificate issued in the United Kingdom which includes the name(s) of at least one of the holder's adoptive parents **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
10. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
11. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
12. A certificate of registration or naturalisation as a British citizen, **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
13. A letter issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the United Kingdom **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.

You can find out more about these documents and view images in our 'Full guide for employers on preventing illegal working in the UK' which can be downloaded from our website:

[www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/)

# LIST B

## DOCUMENTS WHICH SHOW A RIGHT TO WORK FOR UP TO 12 MONTHS

### Validity of passports and travel documents

You should, where possible, check current passports or travel documents which have not expired. However, if a person does not have one then you can accept evidence of their right to remain and work in the UK in an expired passport or travel document. It is crucial that you check that the stamp or endorsement in the document continues to allow the person to work by virtue of status (i.e. their stay is indefinite) or the date of the end of their permitted stay has not expired.

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

**You should note however that a Biometric Residence Permit must not have expired to be considered acceptable as evidence of right to work.**

1. A passport or travel document endorsed to show that the holder is allowed to stay in the United Kingdom and is allowed to do the type of work in question, provided that it does not require the issue of a work permit.
2. A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question.
3. A work permit or other approval to take employment issued by the Home Office, the Border and Immigration Agency or the UK Border Agency **when produced in combination with** either a passport or another travel document endorsed to show the holder is allowed to stay in the United Kingdom and is allowed to do the work in question, or a letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer confirming the same.
4. A Certificate of Application issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to or for 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 **when produced in combination with** a positive confirmation letter from our Employer Checking Service.
5. A residence card or document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to a family member of a national of a European Economic Area country or Switzerland.
6. An Application Registration Card issued by the Home Office, the Border and Immigration Agency or the UK Border Agency stating that the holder is permitted to take employment, **when produced in combination with** a positive confirmation letter from our Employer Checking Service.



7. An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named in it can stay in the United Kingdom, and is allowed to do the type of work in question, **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.
8. A letter issued by the Home Office, Border and Immigration Agency or UK Border Agency to the holder or the employer or prospective employer, which indicates that the person named in it can stay in the United Kingdom and is allowed to do the work in question **when produced in combination with** an official document giving the person's National Insurance Number and their name issued by a Government agency or a previous employer.

You can find out more about these documents and view images in our 'Full guide for employers on preventing illegal working in the UK' which can be downloaded from our website:

[www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working](http://www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working)

### **DOCUMENTS THAT ARE NOT ACCEPTABLE FOR PROVING RIGHT TO WORK**

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

- a Home Office Standard Acknowledgement Letter or Immigration Service Letter (IS96W) which states that an asylum seeker can work in the UK. If you are presented with these documents then you should advise the applicant to call us on **0151 237 6375** for information about how they can apply for an Application Registration Card;
- a National Insurance number on its own in any format;
- a driving licence issued by the Driver and Vehicle Licensing Agency;
- a bill issued by a financial institution or a utility company;
- a passport describing the holder as a British Dependent Territories Citizen which states that the holder has a connection with Gibraltar;
- a short (abbreviated) birth certificate issued in the UK which does not have details of at least one of the holder's parents;
- a licence provided by the Security Industry Authority;
- a document check by the Criminal Records Bureau;
- a card or certificate issued by the Inland Revenue under the Construction Industry Scheme.

# ANNEX A

## EMPLOYERS RIGHT TO WORK CHECKLIST

Name of person: .....

Date of check: .....

- Type of check:
- First check before employment
- Repeat check on an employee

### STEP 1: ASK FOR ACCEPTABLE DOCUMENTS SHOWING RIGHT TO WORK

- You must be provided with one of the documents or combinations of documents in List A or List B below as proof that someone is allowed to work in the UK.
- You must only accept originals documents.

#### List A

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 that 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 residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to a national of a European Economic Area country or Switzerland
4.  A permanent residence card or document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the family member of a national of a European Economic Area country or Switzerland
5.  A Biometric Residence Permit issued by the UK Border Agency 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
6.  A passport or other travel document 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.  An Immigration Status Document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency 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 **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)

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 **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)
9.  A birth **or** adoption certificate issued in the Channel Islands, the Isle of Man or Ireland **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)
10.  A certificate of registration or naturalization as a British citizen **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)
11.  A letter issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to the holder which indicates that the person named in it is allowed to stay indefinitely in the UK **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)

#### List B

1.  A passport or other travel document endorsed to show that the holder is allowed to stay in the UK and is allowed to do the type of work you are offering
2.  A Biometric Residence Permit issued by the UK Border Agency to the holder which indicates that the person named in it can stay in the UK and is allowed to do the type of work you are offering
3.  A residence card or document issued by the Home Office, the Border and Immigration Agency, or the UK Border Agency to a family member of a national of a European Economic Area country or Switzerland
4.  A work permit or other approval or other approval to take employment issued by the Home Office, the Border and Immigration Agency or the UK Border Agency **together with either** a passport or travel document endorsed to show the holder is allowed to stay in the UK and is allowed to do the work you are offering **or** a letter issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder or to you confirming the same
5.  A Certificate of Application which is **less than 6 months old** issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to or for the family member of a national of a European Economic Area country or Switzerland stating the holder is allowed to take employment **together with** a positive verification letter from the UK Border Agency's Employer Checking Service
6.  An Application Registration Card (ARC) issued by the Home Office, the Border and Immigration Agency stating that the holder is 'ALLOWED TO WORK' or 'EMPLOYMENT PERMITTED' **together with** a positive verification letter from the UK Border Agency's Employer Checking Service
7.  An Immigration Status Document issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder with an endorsement indicating that the person named on it can stay in the UK and is allowed to do the type of work you are offering **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)

8.  A letter issued by the Home Office, the Border and Immigration Agency or the UK Border Agency to the holder or to you as the potential employer or employer, which indicates that the person named in it can stay in the UK and is allowed to do the type of work you are offering **together with** an official document issued by a previous employer or Government agency with the person's name and National Insurance number (a P45, P46, National Insurance card, or letter from a Government agency)

## STEP 2: CHECK THE VALIDITY OF THE DOCUMENTS

- You must satisfy yourself that the documents are genuine and that the person presenting the documents is both the rightful holder and allowed to do the type of work you are offering.**

- Are photographs consistent with the appearance of the person?  Yes  No  N/A
- Are the dates of birth listed consistent both across documents and with the appearance of the person?  Yes  No  N/A
- Are expiry dates for limited leave to enter or remain in the UK in the future i.e. they have not passed?  Yes  No  N/A
- Do the endorsements (stamps, visas etc) show the person is able to do the type of work you are offering?  Yes  No  N/A
- Are you satisfied that the documents are genuine, have not been tampered with and belong to the holder?  Yes  No  N/A
- Have you asked for further documents to explain why you have been given documents with different names?  Yes  No  N/A

## STEP 3: TAKE A COPY OF THE DOCUMENTS

- You must take a copy of the documents in a format which cannot later be altered.**

Is the document or one of the documents a passport or travel document?  Yes  No

If **Yes** then you must photocopy or scan:

- the front cover and any pages providing the holder's personal details; their nationality; photograph; date of birth; signature; date of expiry and biometric details; and
- any pages containing UK Government endorsements' showing the person is allowed to work in the UK and carry out the work you are offering.

**All other documents** should be copied in full, including both sides of a Biometric Residence Permit.

#### STEP 4: KNOW THE TYPE OF EXCUSE YOU HAVE

If you have correctly carried out the above 3 steps you will have an excuse against payment of a civil penalty if the UK Border Agency find the above named person working for you illegally.

However, you need to be aware of the type of excuse you have as this determines how long it is valid for.

Are the documents that you have checked and copied from List A or List B?

List A

- You have an excuse for the full duration of the person's employment with you.
- You are not required to carry out any repeat right to work checks on this person.

List B

- You have an excuse for **up to 12 months** from the date on which you carried out this check.
- To keep your excuse you **must carry out a repeat check** on this person **within 12 months**.
- If the person's leave expires within a 12 month period you should carry out your repeat check at that point to find out if they continue to have the right to work.

**Date repeat check required:** .....

**Date leave/right to work expires:** .....

