



Name of worker:

Date of check:

Type of check:

Initial check before employment

Follow-up right to work check

☐  
☐

### 1. Type of working arrangement

Employers must carry out a prescribed right to work check in the following circumstances before the worker commences employment in order to establish a statutory excuse against liability for payment of a civil penalty:

- ☐ **A worker employed under a contract of employment** (a contract of service or apprenticeship)
- ☐ **A worker engaged under a worker's contract\***
- ☐ **A worker engaged as an individual sub-contractor\*\***
- ☐ **The employer operates an online matching service** providing details of an individual who is a service provider to potential clients or customers.

### 2. Types of right to work checks

Employers must carry out **one** of the following checks **before** the worker commences employment:

- ☐ **1. A manual document-based right to work check** (pages 2-5)
- ☐ **2. A Home Office online right to work check** (page 6)
- ☐ **3. A right to work check using a Right to Work DVSP** (page 7)

Employers **must not** require an individual to prove their right to work using a particular method or discriminate against them because of the method they need to use. Individual should be given a reasonable opportunity to use a prescribed method available to them.

**3. Extended liability** (may apply to certain contractual arrangements for the provision of work or services. Organisations should refer to 'Employer's guide to right to work checks' for employers to determine whether it applies to their arrangements).

- ☐ **Does extended liability apply?** (page 8)

\* A contract (other than a contract of service or apprenticeship) under which a) an individual undertakes to perform work or services personally for another person (whether or not that person is specified in the contract), and b) the person is neither a client nor customer of any profession or business undertaking carried on by the individual.

\*\* An individual who has entered into a contract with a person to provide work or services, in circumstances where that other person has entered into a contract with a third party to provide, or arrange for the provision of, the work or services but the individual has not.

# 1. Manual document-based check

## Step 1 – Obtain

**List A: Acceptable documents to establish a continuous statutory excuse** (individual has a continuous right to work in the UK therefore no follow-up checks will be required)

- ☐ 1. A passport<sup>1</sup> (current or expired) showing the holder is a British citizen.
- ☐ 2. A passport or passport card<sup>1</sup> (in either case, whether current or expired) showing that the holder is an Irish citizen.
- ☐ 3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
- ☐ 4. 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<sup>2</sup>.
- ☐ 5. A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named individual 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 individual's permanent National Insurance number and their name issued by a government agency or a previous employer.
- ☐ 6. A long or short birth or adoption certificate issued in the UK<sup>3</sup>, **together with** an official document giving the individual's permanent National Insurance number and their name issued by a government agency or a previous employer. *(Employers can accept digital evidence of an individual's name and National Insurance number, provided they are satisfied it belongs to them and comes from a reliable source. Employers must not ask the individual for their password to access information on their personal device.)*
- ☐ 7. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **together with** an official document giving the individual's permanent National Insurance number and their name issued by a government agency or a previous employer.
- ☐ 8. A certificate of registration or naturalisation as a British citizen, **together with** an official document giving the individual's permanent National Insurance number and their name issued by a government agency or a previous employer.

Except for digital evidence of an individual's name and National Insurance number, employers must not rely on a screen shot, scanned copies or other electronic copies of documents for a manual right to work check. The check must be conducted in the presence of the holder, either in person or by a live video link. Where the check is conducted by live video link, you must be in physical possession of the original documents.

<sup>1</sup> A clipped passport is a cancelled document (identified by the corners of certain pages in the passport being cut/removed) and therefore is not acceptable proof of right to work.

<sup>2</sup> 'Definition includes those with a document which shows that the holder is entitled to readmission to the UK (RUK endorsement)' and ILR endorsements from a Crown Dependency.

<sup>3</sup> Definition includes a birth certificate issued by a UK diplomatic mission (British Embassy or British High Commission) and consular birth certificates.

**List B Group 1: Documents which establish a time-limited statutory excuse until the expiry date of permission** (a follow-up check will be required for an employer to maintain their statutory excuse)

- ☐ 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<sup>4</sup>.
- ☐ 2. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Home Office Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
- ☐ 3. A **current** Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named individual may stay in the UK and is allowed to do the type of work in question, **together with** an official document giving the individual's permanent National Insurance number and their name issued by a government agency or a previous employer.

**List B Group 2: Documents which establish a time-limited statutory excuse for six months** (a follow-up check will be required for an employer to maintain their statutory excuse)

- ☐ 1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the Immigration Rules (known as the EU Settlement Scheme or EUSS) on or before 30 June 2021 **together with** a Positive Verification Notice from the Employer Checking Service.
- ☐ 2. A Certificate of Application (non-digital) issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the Immigration Rules (Known as the EU Settlement Scheme or EUSS) on or after 1 July 2021, **together with** a Positive Verification Notice from the Employer Checking Service.
- ☐ 3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Employer Checking Service, showing that the holder has been granted limited leave to enter or remain under Appendix EU(J) to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules **together with** a Positive Verification Notice from the Home Office Employer Checking Service.
- ☐ 4. 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.
- ☐ 5. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named individual may stay in the UK and is permitted to do the work in question.

<sup>4</sup> This includes a current passport endorsed with a stamp showing an individual has been granted leave to enter and there are no work-related conditions attached. If, under the conditions of the individual's leave, work was restricted or prohibited the endorsement placed in the individual's passport would explicitly set that out as a condition.

## Step 2 - Check

Employers must **check** that the documents are genuine, have not been tampered with and belong to the individual presenting them. They must also check that the individual is permitted to do the work in question.

|                                                                                                                                                                                                                                                                                                                                                                                                                                 |     |    |     |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|-----|
| <b>1. Are photographs consistent across documents and with the individual presenting them?</b> This can be checked in person, by live video link or digitally using facial recognition technology. Where facial recognition technology is used, a registered RtW DVSP <b>must</b> be used and the employer <b>must</b> obtain its comparison verifying the match between the facial image from the document and the individual. | Yes | No | N/A |
| <b>2. Are dates of birth correct and consistent across documents?</b>                                                                                                                                                                                                                                                                                                                                                           | Yes | No | N/A |
| <b>3. Are expiry dates for time-limited permission to be in the UK in the future i.e. they have not passed</b> (if applicable)?                                                                                                                                                                                                                                                                                                 | Yes | No | N/A |
| <b>4. Have work restrictions been checked to confirm the individual is permitted to do the work offered?</b> (For students with limited permission to work during term time, employers must obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed).                                                                | Yes | No | N/A |
| <b>5. Have all reasonable steps been taken to check that the documents are genuine, have not been tampered with and belong to the holder?</b>                                                                                                                                                                                                                                                                                   | Yes | No | N/A |
| <b>6. Have the reasons for any different names across documents</b> (e.g. marriage certificate, divorce decree, deed poll) <b>been checked?</b> (Supporting documents should also be photocopied and a copy retained).                                                                                                                                                                                                          | Yes | No | N/A |
| <b>7. Was the check conducted with the holder present, either in person or by live video link?</b> (If by video link, were the original documents in the employer's physical possession?).                                                                                                                                                                                                                                      | Yes | No | N/A |

## Step 3 – Copy

Employers must:

- ☐ **Make a clear copy of each document in a format that cannot be manually altered** for example, as a PDF, HTML or hardcopy. Where facial recognition technology is used, employers must also obtain the comparison provided by the RtW DVSP.
- ☐ **If the document is a passport, copy any page containing the expiry date, nationality, DOB, signature, immigration permission, biometric details, photograph and any page containing information showing the holder's entitlement to enter or remain in the UK and undertake the work in question.** The front cover does not need to be copied.

#### Step 4 – Record and retain

Employers must:

- ☐ **Retain a secure record of the date on which the right to check was conducted**, either by stating “The date on which this right to work check was made: [insert date]” on the copy or by keeping a separate manual or digital record. Simply writing a date on the copy document on its own will not be sufficient.
- ☐ **Ensure all copies of documents are kept securely for the duration of employment and for 2 years afterwards**, then securely destroy them.
- ☐ **Retain a secure copy of the comparison provided by the RtW DVSP alongside a copy of the document checked, where facial recognition technology has been used.**

## 2.Home Office online right to work check

### Step 1: Use the online service

Where an individual has an eVisa, employers must use the Home Office online right to work checking service to establish a statutory excuse by accessing the individual's right to work information using a share code.

Employers must:

- ☐ **Access the Home Office right to work checking service** ([www.gov.uk/view-right-to-work](https://www.gov.uk/view-right-to-work))
- ☐ **Enter the individual's share code and date of birth**

Employers should also:

- ☐ **Enter the employer or business name correctly and in full**

### Step 2: Check

Employers must:

- ☐ **Ensure that the photograph on the online right to work check is of the individual who is the subject of the check.** This can be done in person, by video call or digitally using facial recognition technology. Where facial recognition technology is used, a registered RtW DVSP must be used and the employer must obtain its comparison verifying the match between the facial image on the service output and the individual.
- ☐ **Ensure the online check confirms the individual has the right to work and is permitted to do the work offered and comply with any conditions or restrictions shown on the check.** Only employ the worker or continue to employ them in the case of a follow-up check, if this is the case.

### Step 3: Retain

Employers must:

- ☐ **Securely retain a PDF or HTML copy of the 'profile' page confirming the individual's right to work, including the photograph and the date on which the check was conducted, for the duration of employment and for 2 years afterwards. The copy must then be securely destroyed.**
- ☐ **Retain a secure copy of the comparison provided by the RtW DVSP alongside a copy of the service output, where facial recognition technology has been used.**

### 3. A check using a Right to Work digital verification service provider (RtW DVSP)

The use of digital verification service providers for right to work checks is not mandated. Where an employer chooses to use the services of a RtW DVSP to complete the digital identity verification element of right to work checks, the following steps apply:

#### Step 1: Locate

Employers must:

- ☐ **Choose a RtW DVSP that is registered with Office for Digital Identities and Attributes (OfDIA) to provide right to work checks.** RtW DVSPs can check eligible British or Irish passports, including Irish passport cards, and other acceptable documents where these are available digitally.

#### Step 2: Obtain

Employers must:

- ☐ **Obtain the right to work check output from the RtW DVSP.**

#### Step 3: Check

Employers must:

- ☐ **Satisfy themselves that the photograph and biographic details (for example date of birth) provided by the RtW DVSP are of the individual who is the subject of the check.** This can be done in person, by video call or using facial recognition technology. Where facial recognition technology is used, a registered RtW DVSP must be used and the employer must obtain its comparison verifying the match between the facial image from the document and the individual.

#### Step 4: Retain

Employers must:

- ☐ **Ensure the RtW DVSP output contains the required information,** including the individual's name, date of birth, document image, photograph, date of the identity check and the name of the RtW DVSP.
- ☐ **Ensure the output confirms that the RtW DVSP is registered, is conducting checks in accordance with the supplementary code and has verified the individual's identity and includes a link to its register entry.**
- ☐ **Retain a clear copy of the RtW DVSP output for the duration of employment and for 2 years afterwards, then securely destroy it.**
- ☐ **Retain a secure copy of the comparison provided by the RtW DVSP alongside a copy of the output, where facial recognition technology has been used.**

## 4. Extended liability screening

Determine if there is potential for extended liability to apply

|                                                                                                                                              |     |    |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| 1. Is the worker employed directly under a contract of employment?                                                                           | Yes | No |
| 2. Is the worker engaged under a worker's contract?                                                                                          | Yes | No |
| 3. Is the worker engaged as an individual sub-contractor?                                                                                    | Yes | No |
| 4. Do you receive relevant work or services from an individual supplied through another employer or service provider?                        | Yes | No |
| 5. Do you operate an online matching service providing details of an individual who is a service provider to potential clients or customers? | Yes | No |
| 6. Does the contractual arrangement permit substitution?                                                                                     | Yes | No |

## How to establish a statutory excuse against extended liability

### Contractual terms and conditions (written statement)

The questions below may assist employers to ensure the correct steps are taken for a written statement that **must** be in place before work or services commence where workers are supplied through another employer or matched with clients through an online matching service. **Organisations should refer to the 'Employer's guide to right to work checks' for further detail.**

| Complete                 | Check                                                                                              |
|--------------------------|----------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | Required written statement containing the prescribed contractual terms and conditions is in place. |
| <input type="checkbox"/> | Appropriate arrangements are in place to ensure the requirements operate effectively in practice.  |

## **Substitution controls** (where applicable)

The questions below assist employers where a contractual arrangement between an employer and a worker permits substitution. The employer will only establish a statutory excuse against extended liability for payment of a civil penalty where they have implemented, before the work or service commences.

**Organisations should refer to the 'Employer's guide to right to work checks' for further detail.**

| <b>Complete</b>          | <b>Check</b>                                                                                                                                                                                                                                                                                                                                                  |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <b>Any substitute undergoes a prescribed right to work check before starting work or providing services.</b>                                                                                                                                                                                                                                                  |
| <input type="checkbox"/> | <b>Appropriate substitution controls are in place and work effectively in practice to prevent an imposter from undertaking the work. This includes contractual provisions which allows action to be taken where there is knowledge or reasonable cause to believe a substitute may be working illegally or fails to cooperate with a right to work check.</b> |

## **Identity verification**

Complete this section to confirm that the individual carrying out the work or services is the same individual on whom a right to work check has been conducted.

**Organisations should refer to the 'Employer's guide to right to work checks' for further detail.**

| <b>Complete</b>          | <b>Check</b>                                                                                                                                                                              |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <input type="checkbox"/> | <b>Proportionate systems and processes are in place to ensure that the person carrying out the work or services is the person on whom a right to work check was conducted.</b>            |
| <input type="checkbox"/> | <b>Identity verification arrangements operate effectively in practice.</b>                                                                                                                |
| <input type="checkbox"/> | <b>Where another party's systems or processes are relied upon, reasonable steps are taken to ensure that the requirements are being met and those systems or processes are effective.</b> |