

[Home](#) > [Right to work checklist](#)

[Immigration Enforcement](#)

[UK Visas and Immigration](#)

Guidance

# Employers' right to work checklist

Updated 13 March 2023

## Contents

[Step 1: Obtain](#)

[Step 2: Check](#)

[Step 3: Copy](#)

[Know the type of excuse you have](#)

[Using an Identity Service Provider \(IDSP\)](#)

[Conducting a Home Office online right to work check](#)



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A statutory excuse is an employer's defence against a civil penalty. In order to establish a statutory excuse against a civil penalty in the event that an employee is found to be working illegally, employers must do one of the following before the employee commences employment:

- a manual right to work check (all)
- a right to work check using Identity Document Validation Technology (IDVT) via the services of an Identity Service Provider (IDSP) (British and Irish citizens only)
- a Home Office online right to work check (non-British and non-Irish citizens)

Where a right to work check has been conducted using the services of an IDSP on British and Irish citizens, a continuous statutory excuse will have been established and there is no requirement to see the documents listed below or to carry out a follow up check.

Where a right to work check has been conducted using the Home Office online service, the information is provided in real-time directly from Home Office systems and there is no requirement to see the documents listed below.

## Step 1: Obtain

When carrying out a manual right to work check, you must obtain original documents from either List A or B of acceptable documents.

### List A

1. A passport (current or expired) showing 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 passport card (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 Home Office Employer Checking Service, showing that the holder has been granted unlimited leave to enter or remain under Appendix EU to the Jersey Immigration Rules, Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules.
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>[footnote 1](#)</sup>.
5. 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.

6. A birth or adoption certificate issued 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<sup>[\[footnote 2\]](#)</sup>.
7. 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.
8. 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.

## List B Group 1

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>[\[footnote 3\]](#)</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 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 person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person's permanent National Insurance number and their name issued by a government agency or a previous employer.

## List B Group 2

1. A document issued by the Home Office showing that the holder has made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30 June 2021 together with a Positive Verification Notice from the Home Office Employer Checking Service.
2. A Certificate of Application (digital or 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), on or after 1 July 2021, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey or the Isle of Man showing that the holder has made an application for leave to enter or remain under Appendix EU (J) to the Jersey Immigration Rules or Appendix EU to the immigration Rules (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 person may stay in the UK and is permitted to do the work in question.

## Step 2: Check

You must check that the documents are genuine and that the person presenting them is the prospective or existing employee, the rightful holder and allowed to do the type of work you are offering. You must check that:

- photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation
- expiry dates for permission to be in the UK have not passed
- any work restrictions to determine if they are allowed to do the type of work on offer (for students who have limited permission to work during term-times, you must also 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)
- the documents are genuine, have not been tampered with and belong to the holder
- the reasons for any difference in names across documents can be explained by providing evidence (for example, original marriage certificate, divorce decree absolute, deed poll); these supporting documents must also be photocopied and a copy retained

## Step 3: Copy

You must make a clear copy of each document in a format which cannot manually be altered and retain the copy securely: electronically or in hardcopy. You must also retain a secure record of the date on which you made the check.

You must copy and retain copies of:

1. Passports: any page with the document expiry date, the holder's nationality, date of birth, signature, immigration permission, expiry date, biometric details, photograph and any page containing information indicating the holder has an entitlement to enter or remain in the UK (visa or entry stamp) and undertake the work in question (the front cover no longer has to be copied).
2. All other documents: the document in full, including both sides of an Immigration Status Document and an Application Registration Card.

## Know the type of excuse you have

If you have correctly carried out the above 3 steps you will have a statutory excuse against liability for a civil penalty if the prospective or existing employee is found working for you illegally. However, you need to be aware of the type of excuse you have as this determines how long it lasts for, and if, and when you are required to do a follow-up check.

If the documents that you have checked and copied are from:

- List A: You will establish a continuous statutory excuse for the duration of that person's employment with you if you have conducted the right to work checks correctly before employment begins. You do not have to conduct any further checks on this individual.
- List B group 1: You will establish a time-limited statutory excuse which expires when the person's permission to be in the UK expires. You should carry out a follow-up when the document evidencing their permission to work expires.
- List B group 2: You have a time-limited statutory excuse which expires six months from the date specified in your Positive Verification Notice. This means that you should carry out a follow-up check when this notice expires.

You must obtain original documents from either List A or List B of acceptable documents for a manual right to work check.

## Using an Identity Service Provider (IDSP)

Employers can use IDVT via the services of an IDSP to complete the digital identity verification element of right to work checks for British and Irish citizens who hold a valid passport (including Irish passport cards).

If you use the services of an IDSP for digital identity verification, holders of valid British or Irish passports (or Irish passport cards) can demonstrate their right to work using this method. This will provide you with a continuous statutory excuse. It is your responsibility to obtain the IDVT check from the IDSP. You will only have a statutory excuse if you reasonably believe that the IDSP has carried out their checks in accordance with this guidance.

If you are using the services of an IDSP, please refer to the Digital Identity Verification annex: [Right to work checks: an employer's guide](https://www.gov.uk/government/publications/right-to-work-checks-employers-guide) (<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>).

## 3 basic steps to conducting a right to work check using an IDSP

1. Use levels of confidence. The Home Office recommends that employers only accept checks via an IDSP that satisfy a minimum of a Medium Level of Confidence. A list of certified providers is available for you to choose from on GOV.UK: [Digital identity certification for right to work, right to rent and criminal](#)

[record checks \(https://www.gov.uk/government/publications/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks\)](https://www.gov.uk/government/publications/digital-identity-certification-for-right-to-work-right-to-rent-and-criminal-record-checks). It is not mandatory for you to use a certified provider; you may use a provider not featured within this list if you are satisfied that they are able to provide the required checks.

2. Satisfy yourself that the photograph and biographic details (for example, date of birth) on the output from the IDVT check are consistent with the individual presenting themselves for work (i.e. the information provided by the check relates to the individual and they are not an imposter).
3. Retain a clear copy of the IDVT identity check output for the duration of employment and for two years after the employment has come to an end.

## Conducting a Home Office online right to work check

A Home Office online right to work check will provide you with a statutory excuse against a civil penalty in the event of illegal working involving the subject of the check. You can do an online check by using the online service, entitled '[View a job applicant's right to work details \(https://www.gov.uk/view-right-to-work\)](https://www.gov.uk/view-right-to-work)' on GOV.UK.

It will not be possible to conduct a Home Office online right to work check in all circumstances, as not all individuals will have an immigration status that can be checked online. The online right to work checking service sets out what information you will need to complete an online check. In circumstances in which an online check is not possible, you should conduct the manual check.

Currently, the Home Office online service supports checks for a range of individuals, depending on the type of immigration documentation they are issued with. The use of digital proof of immigration status forms part of our move towards a UK immigration system that is digital by default. This will be simpler, safer and more convenient.

Some individuals have been issued with an eVisa and can only use the online service to prove their right to work.

Biometric Residence Card (BRC), Biometric Residence Permit (BRP) and Frontier Worker Permit (FWP) holders are also only able to evidence their right to work using the Home Office online service. This means you cannot accept or check a physical BRC, BRP or FWP as proof of right to work.

### 3 basic steps to conducting an online right to work check

1. Use the Home Office online right to work checking service (the [View a job applicant's right to work details \(https://www.gov.uk/view-right-to-work\)](https://www.gov.uk/view-right-to-work) on GOV.UK) in respect of an individual and only employ the person, or continue to employ an existing employee, if the online check confirms they are entitled to do the work in question.

2. Satisfy yourself that any photograph on the online right to work check is of the individual presenting themselves for work.
  3. Retain a clear copy of the response provided by the online right to work check (storing that response securely, electronically or in hardcopy) for the duration of employment and for 2 years afterwards.
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1. Definition includes those with a document which shows that the holder is entitled to readmission to the UK (RUK endorsement).
2. Definition includes a full birth certificate issued by a UK diplomatic mission (British Embassy or British High Commission).
3. 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.

[↑ Back to top](#)

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