

Prevention of Illegal Working

Guidance on the Immigration, Asylum and Nationality Act 2006

As an employer, we have a responsibility to prevent illegal working in the UK. The law on the prevention of illegal working is set out in the Immigration, Asylum and Nationality Act. The provisions below cover full-time, part-time, permanent, fixed-term and casual part-time hourly paid employees. The Act stipulates the documents that we have to check in order to be compliant. It is a criminal offence for us to employ someone who is not entitled to work in the UK, to do so could result in a civil penalty up to £20,000 per illegal worker or face criminal conviction. Checks must be carried out **BEFORE** the new employee starts work by the process detailed below.

Please note that right to work checks have been temporarily adjusted due to coronavirus (COVID-19). As of 30 March 2020 the temporary changes (highlighted in Red) have been made.

With effect from 1 July 2021, EEA citizens and their family members require immigration status in the UK and can no longer rely on an EEA passport or national identity card to prove their right to work. They will be required to provide evidence of lawful immigration status in the UK, in the same way as other foreign nationals.

Please note that checks can take place manually or online in some cases, please see further details below.

STEP 1

What documents are valid?

There are 2 lists detailed below that we need to refer to, List A and List B. To comply with the Act, we can take:

Either

- One of the single documents, or two of the documents in the specified combinations given from List A;

Or

- One of the single documents, or two of the documents in the specified combinations given from List B.

WE ONLY ACCEPT ORIGINAL DOCUMENTS - We can temporarily accept a scanned copy or a photo of their original documents.

LIST A – Acceptable documents to establish a continuous statutory excuse

Single documents:

- A current or expired passport showing the holder, or a person named in the passport as the child of the holder, is a British or Irish citizen or a citizen of the UK and Colonies having the right of abode 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** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK*
- A **current** document issued by the Home Office to a family member of an EEA or Swiss citizen, and which indicates that the holder is permitted to stay in the United Kingdom indefinitely.
- An [online right to work check](#) confirming that the individual has been granted Indefinite Leave in the United Kingdom, also referred to as settled status under the EU Settlement Scheme*

*An [online right to work check](#) can be conducted for those who hold a biometric residence permit or biometric residence card.

Combination documents:

- 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.
- A birth (short or long) 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.
- A birth (short or long) 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.
- 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 – demonstrate that the holder has been granted leave to enter or remain in the UK for a limited period of time and / or has restrictions on their right to work in the UK. List B is divided into List B - Group 1 and List B - Group 2.

Documents must be presented before employment starts from List B – Group 1, as well as when the permission expires.

Documents must be presented before employment starts from List B – Group 2, and again after 6 months.

List B – Group 1

Single documents:

- 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 Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.*
- A **current** document issued by the Home Office to a family member of an EEA or Swiss citizen, and which indicates that the holder is permitted to stay in the United Kingdom for a time limited period and to do the type of work in question.

- A frontier worker permit issued under regulation 8 of the Citizen's Rights (Frontier Workers) (EU Exit) Regulations 2020.
- An [online right to work check](#) confirming that the individual has been granted Limited Leave in the United Kingdom, also referred to as pre-settled status under the EU Settlement Scheme*

***An [online right to work check](#) can be conducted for those who hold a biometric residence permit or biometric residence card.**

*For individuals who are sponsored by the University under Skilled Worker (previously Tier 2) or Temporary Worker (Previously Tier 5) visa routes, passport pages showing all personal identity details including previous leave stamps or immigration status is also required.

Combination documents:

- 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

Single documents:

- 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.

Combination documents:

- Documents issued by the Crown Dependencies EU Settlement Schemes, **together with** 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.
- Certificate of Application or document issued by the UK, Jersey or Guernsey EU Settlement Schemes, confirming an application made by the 30 June deadline, **together with** 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.

Student visa / Tier 4 visa holders

EEA students starting a full degree course in 2020-21 onwards and arriving in the UK after 31 December 2020 will be required to apply for a student visa through the new Student route or will be eligible to apply for the Graduate route.

Students with Student /Tier 4 visa may be allowed to work while they are in the UK, however they may not fill a full-time permanent vacancy. They may only be employed on a temporary basis.

There are limits on the number of hours they can work. If studying at degree level (NQF level 6 or equivalent) with a sponsor which is a UK recognised body or a UK Higher Education Institution, they are allowed to work:

- Up to 15 hours per week* during term time. This includes paid and unpaid work. For the purposes of work, a week is defined as a period of seven days starting on a Monday and ending on a Sunday.**
- full-time during holidays. This is a period when they are not required to study. (NB. Re-submission of assignments or coursework/resits are classed as term-time.)
- full-time from the course end date. The student must provide a letter to confirm the course has ended prior to working full-time.
- On a work placement as part of the course, providing the work placement does not amount to more than 50% of the course;

*NB. The University limits the number of working hours at the University to 15 hours per week during term-time for all Undergraduate students and those students undertaking full time studies at any level, across all contracts of employment with the University.

** NB. With effect from 6 April 2017 the UKVI have confirmed that for the purposes of work, a week is defined as a period of seven days starting on a Monday and ending on a Sunday.

In addition to the checks outlined above there is an additional requirement to obtain documentary evidence of term and vacation dates as part of the right to work in the UK check for Student visa / Tier 4 visa holders. This will ensure we do not employ students outside of their visa conditions in relation to working hours.

The following is acceptable as evidence and must be copied and provided to Human Resources:

- **A copy of a letter or email addressed to the student** from their education institution confirming term time dates for the student's course; or
- **A letter addressed to us as the employer** from the education institution confirming term time dates for the student's course.

STEP 2

We must take all reasonable steps to check that the document is genuine and to satisfy ourselves that the individual is the person named in the document, and to check that the documents allow them to do the work in question.

For each document presented, you should:

Check any photographs provided (e.g. on a passport/visa or online right to work check)– are they consistent with the person's appearance (viewed in person or over video call); and

Check the dates of birth listed are consistent across documentation and you are satisfied this is consistent with the person's age; and

Check any expiry dates have not passed; and

Check for any work restrictions (this information will be located in an online right to work check and also UK Government stamps, Biometric Residence Permits or endorsements), to determine if the person can work, as well as any restrictions; and

Satisfy yourself that the documents are (or to the best of your knowledge appear to be) valid and genuine, have not been tampered with and belong to the holder; and

If the person produces documents in different names you need to see a further document to explain the reason for this – e.g. marriage certificate, divorce certificate, deed poll, adoption certificate or statutory declaration; and

Check supporting documents for any different names, for example, marriage certificate, divorce decree or deed poll.

STEP 3

This was the right to work check process carried out prior to the temporary coronavirus COVID-19 measures being introduced (and may be carried out once they end).

Photocopy – take a clear copy of each document in a format which cannot later be altered, and retain the copy securely; electronically or in hardcopy. **On each copied page, you must provide your signature and print your name, the date, and time, to confirm that you have seen the original page or pages of the document. You must also include the statement ‘I confirm that this is a true copy of the original, taken on [DATE AND TIME]’.**

For passports this must include any page with the document expiry date, nationality, date of birth, signature, leave expiry date, biometric details and photograph, and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question; and

Any page containing a UK Government endorsements which allows your potential employee to do the type of work offered

Other documents should be copied in their entirety; this includes **both** sides of a Biometric Residence Permit.

For online right to work checks, you must retain a clear copy of the check and include the date and time the check was undertaken and the name of the employee who completed the check.

All photocopies must have been from the original document and **on each copied page, you must provide your signature and print your name, the date, and time to confirm that you have seen the original page or pages of the document. You must also include the statement ‘I confirm that this is a true copy of the original, taken on [DATE AND TIME]’ before forwarding to Human Resources.** Copies of the documents will be kept for the duration of the person’s employment.

STEP 4 (temporary changes to right to work checks in place due to Coronavirus COVID 19)

Ask the individual to submit a scanned copy or a photo of their original documents via email or using a mobile app.

Arrange a video call with the individual – ask them to hold up the original documents to the camera and check them against the digital copy of the documents.

Record the date you made the check and mark it as “adjusted check undertaken on [insert date] due to COVID-19”

If the worker has a current Biometric Residence Permit, Biometric Residence Card or a status under the EU Settlement Scheme, you may be required to use the [online right to work checking service](#) while doing a video call (the applicant must [give you permission to view their details](#)).

Consequences of failing to undertake an eligibility to work check

Human Resources will undertake a regular audit of copies of List A and List B documentation, to ensure that the 3 step process outlined above has been fully completed **prior** to the individual commencing work, including providing term dates when employing Student visa / Tier 4 visa holders.

If the eligibility to work check is not fully completed at the appropriate time this could result in a civil penalty up to £20,000 per illegal worker reported or criminal conviction. In addition, Human Resources will undertake an investigation in line with the [Disciplinary Procedure](#) which may result in disciplinary action for the member of staff who has allowed the individual to work without the appropriate eligibility to work check having taken place.

Workshops can be delivered by Human Resources on the Prevention of Illegal Working. For further information please email BUVI@bournemouth.ac.uk.

Please contact Human Resources if you require further advice and guidance in relation to an individuals right to work in the UK and for the University. Human Resources contact details can be found on the [Staff Intranet](#) or alternatively the team can be contacted by phone on 01202 961133 or via email at hrenquiries@bournemouth.ac.uk.