

In the Camden Licensing Sub-Committee

**In the matter of a Review of the Premises Licence for Sican, 26-28 Whitfield Street,
London W1T 2RG**

SICAN EVIDENCE BUNDLE

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WITNESS STATEMENT OF MR NICOLO MASCITTI

Personal and Premises Background

1. My name is Nicolo Mascitti, and I (through my company Sican Limited) am the owner and operator of Sican, a high-quality food and drink venue located at 26-28 Whitfield Street, London. I take my responsibilities as a Premises Licence Holder extremely seriously and understand the need to uphold all four licensing objectives under the Licensing Act 2003, including the prevention of crime and disorder and the prevention of public nuisance.
2. I have worked in the hospitality industry for 15 years, and have operated several food and drink premises in that time. I currently run 4 premises throughout the world (3 in London and 1 overseas).
3. Sican was an entirely new enterprise, with a drive to capitalise on the post-COVID market for “*fixed price*” hospitality. I set up Sican with my then business and life partner, Alessandra Breda, and it was she who dealt with day to day management of the site. Alessandra was on maternity leave in March and April and in that time delegated her management to the DPS, Remi Jackson.
4. Unfortunately, my relationship with Alessandra deteriorated throughout 2024. By October 2024 we had broken up, and I was having to step in to manage Sican, whilst also dealing with the “family law” issues that related to the split. We have 2 young children and I am dealing with custody issues.
5. Sican operates primarily as a pre-booked food and drink experience venue (we do offer an a la carte option outside of our pre-paid packages but these are in the small minority of covers – I have attached a copy of our menu and the dishes available are

the same as the ones included in the fixed price experience – demonstrating excellent value for the fixed price customer although each dish may be smaller), offering customers two-hour slots to enjoy an eight-course meal with curated drink options. These are marketed as “*bottomless brunches*” as this is the term embraced by the industry and holds maximum customer recognition (and Search Engine Optimisation). In reality, the brunch is not without limits (not least because that would be completely uneconomic). In basic terms, we ‘pre-sell’ tickets to customers, for a 2-hour managed experience. They receive an eight-course meal of high quality food, and alongside that they can order a range of drinks. The impression intended is that it feels ‘unlimited’ but:

- they have to order drinks from a member of the waiting team; there is no self-service;
- they cannot order a drink until the last drink they ordered is finished;
- that waiting team monitor carefully how much is being consumed, not least because our business model relies on the cost base being maintained: we have done a lot of work ‘behind the scenes’ on how much one of these experiences costs per customer, and we make sure that is not exceeded (because otherwise we would start to lose money);
- the waiting team keep in close communication throughout the experience and work together to manage consumption. In reality, it is rare that positive steps have to be taken to limit what anyone is ordering: the model works well and customers usually stay well within the limits.
- Obviously, we are a business. The ‘product’ we are selling is a fixed-price experience. It is good value for money and customers seem to enjoy it. They know how much they will be spending in advance and can be sure that they won’t exceed their budget. It works for us because we know our cost base and number of covers in advance, allowing us to minimise waste and plan accurately. There is literally zero benefit to us if customers consume more than our pre-set limits – if they did, our profit margin would shrink and eventually we would lose money. In addition, having drunk customers would cause management problems for us.

6. Sican is not a venue designed for excessive alcohol consumption or uncontrolled late-night revelry, as evidenced by our operational model. Unlike many licensed premises, Sican's income does not benefit from encouraging customers to keep drinking, because increased alcohol consumption actually reduces our profit margins. Our business model reflects our focus on providing a sophisticated dining experience rather than a venue for unregulated drinking or rowdy behaviour.
7. Our staff monitor the ordering and consumption of alcohol, resulting in customers consuming between 5 and 10 units of alcohol over a 2 hour period. That's equivalent to 2 to 4 glasses of wine. If any customer displays signs of intoxication they are informed that they can only order soft drink from that point, but our controls mean for the most part, customers can't drink quickly enough for them to reach that point.

Noise Complaints

8. One of the primary grounds for this review is the alleged disturbance caused by customers leaving the premises. I note that the Council communicated with the Premises by email, and some steps were taken, but these appear to have been inadequate. To address these concerns, I put in place an enhanced dispersal system and ensured my team worked in line with it. I engaged **Big Sky Acoustics Ltd**, a reputable independent consultancy, to carry out a full **Noise Impact Assessment** of the premises and surrounding area. Mr Richard Vivian, the consultant, will attend the hearing. The key findings of his report include:
 - **Effective Noise Containment:** The building structure effectively contains all noise from within the premises, and there is no evidence of noise breakout causing any public nuisance. The report highlights that the construction of the building acts as a substantial envelope to limit internal sound escape. Measurements taken during the site visit indicated no detectable internal noise at the façade of any nearby noise-sensitive properties.
 - **Customer Dispersal Observations:** The assessment conducted by Big Sky Acoustics on the night of the site visit found that customers left the premises in a controlled and orderly manner, with no measurable increase in average noise levels on Whitfield Street during dispersal. It was observed that no Sican

patrons used Colville Place as a route to leave, which further minimises potential disturbances to neighbouring residents.

- **Noise Climate Context:** The surrounding area is characterised by the typical noise levels expected in central London, including road traffic, pedestrian activity, and intermittent noise events such as emergency vehicle sirens and deliveries. These pre-existing environmental factors significantly mask any incremental noise from Sican, ensuring that its operations do not contribute discernibly to the overall noise climate.
 - **Impact of Sican's Operations:** The report concludes that Sican's operation is consistent with best practice for noise management in urban environments. The presence of Sican as a responsibly managed premises may even reduce the potential for anti-social behaviour by discouraging street drinkers and improving lighting and safety in the immediate area.
9. To further mitigate concerns, I have updated our policies in line with Mr Vivian's recommendations for a **Noise Management Policy** and a **Dispersal Policy**, which are appended to Mr Vivian's Report and include:
- Monitoring noise levels from patrons leaving the premises.
 - Training staff to manage customer behaviour and encourage quiet departures.
 - Ensuring the entrance door remains closed except for customer access and egress.
 - Installing signage reminding customers to respect the local community.
10. These measures reflect my proactive approach to mitigating any potential nuisance and addressing concerns raised by residents. I am committed to constantly improving our operations at Sican to ensure we are promoting the licensing objectives.
11. To ensure that my team are maintaining the standards I expect, I engaged Better Compliance Ltd to perform an up to date inspection of Sican, with a focus on the handling of dispersal of customers. Their report is attached and I would ask the sub-committee to please read this and note that the inspector found:
- *"23. During my observation, I saw nothing which adversely impacted the four licensing objectives."*

12. And:

- “24. *Staff were proactive in supervising and managing guests leaving the premises.*”

13. I am of course pleased this was the case, but I think even the neighbours have seen this in effect, as they recently circulated the attached letter, agreeing that Sican is managing its customers and not causing a nuisance.

Immigration Enforcement Representation

14. The Representation from Immigration Enforcement refers to an inspection conducted on 21 July 2024, during which illegal workers were found at the premises. This was a big shock to me and I deeply regret that it was allowed to come to pass. I would like to clarify several points regarding this matter:

- **Management Transition:** Until September 2024, the premises were managed by my former life and business partner, Alessandra. Following the breakdown of our relationship, I assumed full operational responsibility for Sican. During her tenure, my former partner was responsible for recruiting staff, including – it turns out - the individuals identified as illegal workers. I was not directly involved in these recruitment decisions and had no knowledge of their immigration status. I am obviously dismayed that she allowed this situation to arise.
- **Link to Former Partner:** One of the managers identified in the Immigration Enforcement report is now employed by my former partner at her new restaurant, further highlighting that these recruitment practices were not under my control, and were based on my former partner’s relationships with these workers.

15. **Corrective Actions:** Upon taking over the management of Sican in September 2024, I implemented significant changes to ensure compliance with employment laws and prevent any recurrence of these issues:

- I engaged **Peninsula Business Services Ltd**, an expert HR consultancy, to overhaul our recruitment processes.

- All managers have undergone comprehensive training on conducting proper right-to-work checks.
- An on-line compliance system has been established, ensuring all documentation is securely stored, monitored, and regularly audited.

16. The above measures are all there to ensure that we never again employ illegal workers. The new system effectively makes it impossible to do so and that is what I wish to see. I would be happy to walk the Home Office and/or the Police through how the system works.

Pest Control

17. This was an unfortunate issue that I inherited and have been fighting against. There is a neighbouring building that has been empty for a period, and is now in the process of redevelopment. I have been informed by my pest control contractors that this often causes the mice living in the unoccupied building to spread out and find somewhere new. We saw a huge increase in the number of mice being caught by our contractor and I accept we struggled to keep on top of it. We brought in regular deep clean specialist to ensure Sican was not providing food that the mice would be attracted to, but they kept coming as they were forced out of their home. We have finally managed, thanks to our pest control contractors, to get on top of the surge of mice and the Council themselves witnessed our work and our results. In my view this is no longer an issue, although of course we actively monitor and manage it.

Effect of a cut back in hours

18. I note that it is suggested that our hours should be reduced as a result of this review (effectively removing our last two-hour 'sitting' each day). I would ask the sub-committee not to do that as it would be hugely damaging to our approach, and in any event what we have outlined as a response to the issue raised should be sufficient to ensure that the licensing objectives will be promoted from here on. Although our last sitting of the day is not our most popular, it still generates vital revenue that in the current economy, we cannot survive without. Our fixed costs would not reduce, even if we closed earlier.

Commitment to Licensing Objectives

19. Sican is dedicated to upholding all four licensing objectives. Specific steps I have taken include:

Prevention of Crime and Disorder:

- Implementing a rigorous staff vetting process to prevent illegal working.
- Training staff to monitor and control customer behaviour, ensuring responsible alcohol consumption.

Public Safety:

- Maintaining strict health and safety protocols within the premises.
- Ensuring staff are trained in food hygiene and premises cleansing requirements.

Prevention of Public Nuisance:

- Adopting the recommendations of the Noise Impact Assessment, including configuring the sound system with defined maximum operating levels to prevent excessive noise.
- Training staff to manage customer dispersal and minimise noise disturbances.
- Engaging with neighbouring residents to address their concerns.

Proposed Conditions

20. I have read the 16 draft proposed conditions suggested in this Review, and can agree to all of them save for number 3 (and the precise wording of numbers 1, 15 and 16).

- Proposed condition 3 seeks to require the premises to operate as a “*Restaurant*” where alcohol cannot be sold unless it is ancillary to a table meal. Sican is, on any ordinary view, a restaurant, but it has a “bar” licence and although the majority of our drinks are sold as part of our food and drink packages, losing the ability for occasional drink sales would further damage our ability to generate turnover.

- For Condition 1, a ban on the term “*bottomless brunch*” would significantly damage our ability to market the premises. This is a term that helps to attract customers, but as I have explained above, there is never an unlimited supply of alcohol. It is a pre-booked and pre-paid concept – no more. I cannot see how the licensing objectives would possibly be promoted by requiring us to change the *name* of the concept we deploy at the premises.
- As for Condition 15, I am happy to agree to controls on the putting out of our waste, but I would be most grateful for some flexibility as we do not have any internal storage area suitable for waste. If possible, I would ask for the Council to allow me to put out my waste in a way that does not obstruct the pavement, and ensure it is collected before 9am.
- For SIA staff, Condition 16 is something we do already on Fridays and Saturdays, but often we have very few customers late on Thursdays and Sundays. I would be grateful if the Council would allow me to risk assess the need for SIA staff on those days.

21. To the proposed conditions, I would like to add our Dispersal Policy, including our street management commitment.

Conclusion

22. I fully understand and respect the concerns raised by local residents and the Responsible Authorities. However, I firmly believe that the issues highlighted in this review have been adequately addressed through the proactive measures I have implemented since taking sole control of Sican’s operations.
23. I respectfully request that the Licensing Sub-Committee acknowledges the substantial efforts made to ensure compliance with all Licensing Objectives. My team and I remain committed to operating Sican as a responsible and valued member of the local community, and I am confident that the measures in place will prevent any recurrence of the issues raised in this review.
24. Thank you for considering my statement.

Statement of Truth

25. I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or

causes to be made, a false statement in a document verified by a statement of truth
without an honest belief in its truth.

Signed:.....

Date:.....

Nicolo Mascitti

From: Alessandra Breda <[REDACTED]>
Sent: Friday, March 8, 2024 4:30 PM
To: [REDACTED] <[REDACTED]>; Samina Khan <[REDACTED]>
Cc: Afshar Ahmad <[REDACTED]>; [CNMailbox-.CamdenPoliceLicensingTeam@met.police.uk](#); Esther Jones <[REDACTED]>; Lee Perella <[REDACTED]>; Seymour Zajota <[REDACTED]>
Subject: Sican London - Dispersal Policy

[EXTERNAL EMAIL] Beware – This email originated outside Camden Council and may be malicious. Please take extra care with any links, attachments, requests to take action or for you to verify your password etc.

Dear Samina,

Hope all is well.

Prior to our meeting please see attached our latest updated version of Sican's dispersal policy.

Please do share with us any comments you might have on the attached policy.

Thank you for your assistance
Best regards,
Alessandra

From: Samina Khan <[S\[REDACTED\]@met.police.uk](#)>
Sent: 18 March 2024 12:25
To: Alessandra Breda <[a\[REDACTED\]@met.police.uk](#)>; Marcus Lavell <[M\[REDACTED\]@met.police.uk](#)>
Cc: Afshar Ahmad <[A\[REDACTED\]@met.police.uk](#)>; [CNMailbox-CamdenPoliceLicensingTeam@met.police.uk](#); Esther Jones <[Es\[REDACTED\]@met.police.uk](#)>; Lee Perella <[L\[REDACTED\]@met.police.uk](#)>; Seymour Zajota <[Se\[REDACTED\]@met.police.uk](#)>; Reservations Sican <[reservations@sicanlondon.com](#)>
Subject: RE: Sican London - Dispersal Policy

Dear Alessandra,

I am writing to inform you this morning that I have had an influx of emails from residents regarding Anti-Social behaviour and Noise disturbances over the weekend. I am responding to the emails advising them of the importance to report all Anti-Social Behaviour incidents to the police and noise concerns to the Out of Hours Noise team as they occur. This way they can keep a comprehensive record and address them at the meeting schedule for 21 March. It is important for residents to feel heard and taken seriously during the meeting.

It is concerning that the premises is still struggling to manage the situation effectively. If the issues persist and escalate, I have been informed that it may indeed lead to a resident -led review of the premises licence. It is understandable that residents feel their peace has been disrupted due to the Anti-Social Behaviour and Noise disturbances caused by your patrons. It is sad to hear that residents do not feel valued, as this is negatively impacting the relationship within the community. It is important to address these concerns promptly and work towards finding solutions to restore a peaceful living environment for all residents.

By taking proactive measures and working together, it is possible to mitigate these disruptions and create a more harmonious community, please keep me updated on any progress.

Thank you for your attention to these complaints.

Kind Regards,

Samina Khan
Licensing Officer



From: Marcus Lavell

Sent: 19 March 2024 18:31

To: Samina Khan <[REDACTED]@[REDACTED].uk>; Alessandra Breda <a[REDACTED]@[REDACTED].com>

Cc: Afshar Ahmad <[REDACTED]@[REDACTED].uk>; CNMailbox-CamdenPoliceLicensingTeam@met.police.uk; Esther Jones <Es[REDACTED]@[REDACTED].uk>; Lee Perella <Le[REDACTED]@[REDACTED].uk>; Seymour Zajota <Sey[REDACTED]@[REDACTED].v.uk>; Reservations Sican <reservations@sicanlondon.com>

Subject: RE: Sican London - Dispersal Policy

Dear Samina

As Alessandra is preparing for a personal appointment, as discussed in our previous meeting, I'm responding on behalf of the premises.

I note that your email details an *"influx of emails from residents"* regarding ASB and Noise disturbances over the weekend. I anticipate these focus on Friday night into Saturday morning, and Saturday night into Sunday morning.

This past weekend was in fact, very quiet in terms of customers.

- On Friday (15th) the Premises served 35 covers all day.
- On Saturday (16th) the Premises served 300 covers all day, starting at midday; with 60 covers between 9pm and 11pm.

Following our remote meeting, the premises deployed additional noise/customer control measures to ensure its dispersal policy was followed. As you can imagine, this was even more important to the management given the residents meeting coming up on Thursday of this week. To ensure staff were carrying out their dispersal duties, management provided updates to Alessandra, including pictures and videos (attached) of their cleansing of the empty street, and their walk of the nearby residents' street to ensure there were no customers causing any disturbance, and there was no refuse in the street. Please note, the video was recorded at around 11pm on Saturday night.

The management team are determined to work with the Council to prevent any noise nuisance or ASB being caused by their customers. If you could please provide details of the timing of the events complained of, we will be happy to provide CCTV of those times and any external images we may have captured at the same time. If it appears staff and duty management have not complied with our updated Dispersal Policy, they will be reprimanded and further steps taken to ensure compliance. That said, the low number of customers and empty street at closing time indicates there is not a notable risk that customers of the premises were causing a disturbance.

Notes of Visits

By way of follow up to our remote meeting, the officers' notes the Premises has requested are for the visits performed by Council officers on:

- Saturday 13 January 2024.
- Friday 19 January 2024.

Please can you send these through to me, in the absence of Alessandra.

Kind regards

From: Reservations Sican <reservations@sicanlondon.com>

Sent: 07 May 2024 14:31

To: [REDACTED] [\[REDACTED\].uk](mailto:[REDACTED].uk)

Cc: Marcus Lavell <[\[REDACTED\].uk](mailto:[REDACTED].uk)>; Sam [\[REDACTED\].uk](mailto:[REDACTED].uk);

[\[REDACTED\].uk](mailto:[REDACTED].uk); camdenpolicelicensingteam@met.police.uk;

[\[REDACTED\].uk](mailto:[REDACTED].uk); Se [\[REDACTED\].v.uk](mailto:[REDACTED].v.uk)

Subject: Sican Update

Dear Esther,

Good morning. I hope this message finds you well.

I would like to express my gratitude for the visit from your officers on the 26th of April and provide you with an update on the concerns recently raised by our neighbours.

We are committed to fostering a positive relationship with the community and addressing any valid concerns promptly and effectively. As part of our commitment, we have exchanged contact details with local residents and made ourselves available at all times.

For clarity, I have used the numbered points from your letter of 22 March 2024 as headings for our responses:

- 1. That there is a noise limiter in the premises, but that this will be calibrated and set by council noise officers to an acceptable level, such that music from the premises, if maintained at the setting, shall not be a source of disturbance to residents in neighbouring premises."

Following your recent visit, we have taken your feedback into consideration and have further reduced the output of our sound limiter even though we firmly believed there to not be an issue with music outside the venue. Management conducts regular checks outside the venue to ensure noise levels are not capable of causing a noise nuisance in any neighbouring residential/noise sensitive properties.

Our regular checks prior to the limiter also found that across the street where the complaining neighbours reside there is zero disturbance, we have recorded many videos.

Following the above, if you wish to carry out a further calibration, with Officers in position within our neighbours' properties, please let us know so we can have our acoustic consultant on site to adjust levels as necessary.

- 2. That henceforth, from 10pm, there shall be an on street visible presence of staff members which shall constitute of, at least, the duty manager and another member of the security staff, both to be in high visibility vests. Security staff / dispersal wardens numbers to be increased where deemed necessary, such as on special event nights."

As we are very quiet in the week, this is applied every Saturday, and on Fridays/Sundays/Other days that we have more than 100 covers booked.

As evidence I've attached invoices from the security company to demonstrate this is in effect.

I also wish to address your concern regarding the actions of our security personnel. On Friday, April

26th, we had fewer than 40 guests and experienced a very quiet day, which was managed efficiently by our three on-site managers. Given the small number of patrons, hiring additional security was not feasible from a cost perspective. However, please be assured that on busier days, we ensure that adequate security is in place.

Furthermore, we are yet to receive the reports from the council regarding other visits, during which the officers found us compliant with regulations. Your assistance in sending these reports would be greatly appreciated.

- 3. *Body cameras shall be worn by the SIA security staff."*

Please see the attached photograph of our Body Cams.

- 4. *They shall actively disperse people/customers away from residential areas and towards Tottenham Court Road. The Premises has conceded that their responsibility for peaceful dispersal of patrons extends from the premises to "line of sight" of patrons, either side of the venue."*

Please see attached our current Dispersal Policy, that we are actively operating.

- 5. *Acoustic lobby to be installed at both entrances of the premises to reduce noise from music breakout from the premises when customers leave or enter the venue."*

Whilst we take the construction of an acoustic lobby forward, we have reduced our internal noise levels as noted above.

We have received quotes on sound-proofing the entrance and waiting to put together a budget for the project. I've attached the quotes to this letter.

- 6. *There shall be no more use of "Party Bus" by the premises."*

This was enacted the moment I was informed of the incident relating to the "Party Bus" and I can assure you this will never happen again.

-7. *Due to the presence of mice witnessed inside the premises during the second meeting with the premises inside the venue, professional pest control service shall be engaged to ensure that the premises is rid of all infestation in any form or shape, to include pest treatment and pest proofing of premises. I have copied the team leader pest control in Camden into this correspondence for his information.*

-8. *The kitchen which is being used to service the premises with cooked food shall be registered with the council's food safety service immediately. I have copied the team leader for Food Safety into this correspondence for her information."*

We immediately instigated a deep clean, and a full pest control visit. We have also registered as a food business.

Recommendations from the pest control company have been actioned immediately.

- 9. *The provision of dancing in any form shall cease unless authorised by submission. For the premises to continue to provide dancing, the premises shall apply for a variation of the premises licence to include :- Performance of Dance."*

We are advised by our specialist Licensing Barrister that customers dancing is not a Licensable Activity. The Performance of Dance as a form of Regulated Entertainment relates to entertainment of customers by dancers, where those dancers are performers provided by the Premises. Our Barrister is Marcus Lavell, who you know. Please contact him (copied into this email) should you have any queries on this legal matter.

- 10. The premises shall provide a copy of the contract currently in place for the collection of waste products generated by the premises in the course of its operation. The current practice of placing black refuse bags just outside the venue."

Please find attached our refuse collection contract.

Important :

Although we feel we have made a significant and concerted effort to address and alleviate all the issues local residents and the council has highlighted (as demonstrated above), we feel there is an outstanding concern which would like guidance on and likely requires your attention. This is around complaints from a group of residents concerning rubbish outside our venue. Upon investigation, we discovered that one of the residents has been depositing rubbish from across the street outside our premises and then reporting it to the council. As you know this not only violates local regulations but also undermines our efforts to maintain good community relations. We have video evidence of this behaviour and seek your guidance on how to best address this situation.

The neighbour in the video is one of the committee who also complained about the exact same rubbish ([REDACTED]) This is clearly a set-up and goes to show the intent of the complaining neighbour and we urge you to take this video seriously.

We remain fully committed to addressing the concerns of our neighbours and complying with all regulatory requirements. We have implemented measures to mitigate noise, ensure proper waste management, and maintain a safe and secure environment for both our patrons and the surrounding community.

Thank you for your ongoing support and cooperation. We value your help immensely and would welcome the opportunity to discuss these matters further, if necessary.

Sincerely, Paula Groves
Head office/Management,

Sican

On Thu, 30 May 2024 at 13:31, Samina Khan <[Sa\[REDACTED\]v.uk](mailto:Sa[REDACTED]v.uk)> wrote:

Hi Alessandra,

We sent the attached letter and are disappointed to see no one has turned up for the meeting. We need to address a number of continuing complaints as stated in the letter.

Kind Regards,

Samina Khan
Licensing Officer
Supporting Communities
London Borough of Camden

Web: camden.gov.uk

5 Pancras Square
London N1C 4AG

From: Alessandra Breda <a[REDACTED]m>
Sent: Thursday, May 30, 2024 4:52 PM
To: Samina Khan <sa[REDACTED].uk>
Cc: Marcus Lavell <Mar[REDACTED]k>; Re[REDACTED]m
Subject: Re: FW: Advisory Letter6

Good Afternoon Samina,

I hope you are well.

Thank you for your email.

Please be advised that I did not receive your initial letter of invitation, as you know I am currently on maternity leave.

For future meetings please contact our new DPS Remi Jackson and our legal representative Mr. Marcus Lavell. You have been provided with their contact details.

I understand that Sican had a visit from licensing officers two weeks ago (Saturday 18th May), during which they were satisfied with our operations and did not raise any issues or new complaints.

Additionally, please note that Sican management has sent numerous emails to Esther without receiving a response.

Thank you for your assistance.

Best regards,

Alessandra Breda
Director, DNA London Limited (Soul Lounge)
Director, TROPIX Ltd (Tropix bar)
Director, SICAN Ltd (Sican)
M: 07506881041



SICAN

THE ULTIMATE NIKKEI EXPERIENCE

MENU

SB-019

SICAN

THE ULTIMATE NIKKEI EXPERIENCE

This is sican : temple of the moon.

Our menu is a tribute to the journey of the ancient SICAN civilisation, who journeyed from the far east to the far west on the coast of japan, crossing oceans and continents to find new lands. The fusion of Japanese & Peruvian flavours that emerged from this journey created a culinary experience unlike any other.

In this spirit we have crafted a menu ideal for sharing amongst friends & loved ones. Each set menu comes with rounds of food matched with the perfect cocktail and free flowing bubbles in-between your meal

Join us on a journey of sensory enchantment, as we share with you the tales and flavours of Sican.

Classic set Menu

APPETISERS TO SHARE



- EDAMAME (VG) (G1) , EDAMAME BEANS SERVED WITH SEA SALT
- TORTILLA & GUACAMOLE (VG) AVOCADO, FIERY HABANERO PEPPERS, TOMATOES, TOPPED WITH SPRINKLE OF TOASTED PEPIAS SEEDS
- TOGAROSHI SALT & PEPPER CHILLI SQUID CRISPY CHILLI SQUID, TOPPED YUZU & CORIANDER SERVED WITH WASABI MAYO & KATSUOBUSHI SAUCE
- CASSAVA CROQUETTES (V) , CASSAVA CROQUETTES FILLED WITH SWEET CORN AND CHEESE AND TRUFFLE SALSA

SUSHI SELECTION



- AMARU SPICY TUNA ROLL (G1) , SERVED WITH SICAN'S SECRET SAUCE, SALSA & VEGAN MAYO
- SALMON NIGIRI SALMON, ORANGE TOBIKO, SPICY MAYO
- TUNA (G1) TUNA, WASABI STEAM

MAINS TO SHARE



JALEPENO & YUZU SALMON (GF) , SLICED SASHIMI TOPPED WITH CHILLI YUZU SOY AND CORIANDER

PATATAS BRAVAS (VG) (GF) AVOCADO, FIERY HABANERO PEPPERS, TOMATOES, TOPPED WITH SPRINKLE OF TOASTED PEPTAS SEEDS

YAKITORI CHICKEN SKEWERS (GF) MARINATED IN KIRKOMAN SOY, GRATED YUZU ZEST WITH FIERY SHICHIMI TOGARASHI SPICES, & FLAME GRILLED.

WAGYU BEEF TACOS , SOFT SHELL TACOS, TENDER WAGYU BEEF WITH RED ONION, MISO & AJI LIMO

DRINKS



SICAN BELLINI, LYCHEE, YUZU & PERUVIAN FRUITS BELLINI

HIBISCOUS PORNSTAR MARTINI ABSOLUT VANILLA, HIBISCOUS, PASSIONFRUIT, PINEAPPLE, VANILLA, PASSOA

WASABI MARGARITA PATRÓN SILVER, WASABI BLEND, LIME, PINK PEPPERCORNS, YUZU

RISING SUN G&T BEEFEATER GIN, MIDORI, ELDERFLOWER, KIWI, LIME, TONIC

MOCKTAIL REPLACEMENTS ARE AVAILABLE

THIS MENU IS SERVED WITH BOTTOMLESS PROSECCO FOR 57.5PP AND W/O ANY DRUNKS FOR 42.5

Vegetarian set Menu

APPETISERS TO SHARE



PADRON PEPPERS (VG) (GF) , PEPPERS SERVED WITH DEN MISO SAUCE & SEA SALT

TORTILLA & GUACAMOLE (VG) AVOCADO, FIERY HABANERO PEPPERS, TOMATOES, TOPPED WITH SPRINKLE OF TOASTED PEITAS SEEDS

VEGETABLES TEMPURA (VG) CRISPY TEMPURA, TOPPED WITH YUZU & CORIANDER DRESSING, SERVED WITH WASABI MAYO

CASSAVA CROQUETTES (V) , CASSAVA CROQUETTES FILLED WITH SWEET CORN AND CHEESE AND TRUFFLE SALSA

SUSHI SELECTION



VEGAN ROLL (GF) (VG) TAKUAN, ASPARAGUS, FLAMED ROMANO PEPPER, MISO SAUCE

AVOCADO NIGIRI (VG) (GF) AVACADO, ORANGE TOBIKO, SPICY MAYO

MAINS TO SHARE



JAPANESE MUSHROOM UDON NOODLES (VG) , SERVED WITH BLACK BEANS SAUCE BUTTER SAUCE

VEGAN GYOZA (GF) VEGETABLES GYOZA SERVED WITH A LIGHTLY SWEET POTATO PONZU AND SESAME SEEDS

BBQ TENDER STEM BROCCOLI (GF) (VG)

MISO AUBERGINE TACOS , SOFT SHELL TACOS, TENDER AUBERGINE WITH RED ONION, MISO & AJI LIMO

DRINKS



SICAN BELLINI, LYCHEE, YUZU & PERUVIAN FRUITS BELLINI

HIBISCOUS PORNSTAR MARTINI ABSOLUT VANILLA, HIBISCOUS, PASSIONFRUIT, PINEAPPLE, VANILLA, PASSOA

WASABI MARGARITA PATRÓN SILVER, WASABI BLEND, LIME, PINK PEPPERCORNS, YUZU

RIISING SUN G&T BEEFEATER GIN, MIDORI, ELDERFLOWER, KIWI, LIME, TONIC

MOCKTAIL REPLACEMENTS ARE AVAILABLE

THIS MENU IS SERVED WITH BOTTOMLESS PROSECCO FOR 57.5PP AND W/O ANY DRUNKS FOR 42.5

Prestige set Menu

APPETISERS TO SHARE



- PADRON PEPPERS (VC) (CB) . PEPPERS SERVED WITH DEN MISO SAUCE & SEA SALT
- LOBSTER GYOZA SHRIMP & LOBSTER FILLED GYOZA SERVED WITH A LIGHTLY SWEET POTATO PONZU AND SESAME SEEDS
- NOBASHI EBI PRAWN TEMPURA SERVED WITH YUZU TRUFFLE DRESSING. GARNISHED WITH SHISO LEAVES & CHIVES.
- CASSAVA CROQUETTES (V) . CASSAVA CROQUETTES FILLED WITH SWEET CORN AND CHEESE AND TRUFFLE SALSA

SUSHI SELECTION



- AMARU SPICY TUNA ROLL (CB) . SERVED WITH SICAN'S SECRET SAUCE, SALSA & VEGAN MAYO.
- SALMON NIGIRI SALMON, ORANGE TOBIKO, SPICY MAYO
- TUNA (CB) TUNA, WASABI STEAM.

MAINS TO SHARE



JAPANESE MUSHROOM UDON NOODLES (VG) , SERVED WITH BLACK BEANS SAUCE BUTTER SAUCE

BLACK COD (GF) MARINATED IN PANCA MISO AND SERVED WITH PANCA YUZU JUICE

GRILLED LAMB CUTLETS (GF) , DRESSED IN JI HONEY SALSA, POMEGRANATE, CORIANDER

WAGYU BEEF TACOS , SOFT SHELL TACOS, TENDER WAGYU BEEF FILLED WITH RED ONION, MISO & AJI LIMO

DRINKS



SICAN BELLINI, LYCHEE, YUZU & PERUVIAN FRUITS BELLINI

HIBISCOUS PORNSTAR MARTINI ABSOLUT VANILA, HIBISCOUS, PASSIONFRUIT, PINEAPPLE, VANILLA, PASSOA

THE GOLDEN EMPIRE PATRON REPOSADO, SAFFRON BLEND, AGAVE BITTERS, TONKA BITTERS

ORIGAMI WISH BOMBAY BRAMBLE, ST GERMAN, ELDERFLOWER, LYCITEE

MOCKTAIL REPLACEMENTS ARE AVAILABLE

THIS MENU IS SERVED WITH BOTTOMLESS PROSECCO FOR 75PP AND W/O ANY DRUNKS FOR 60PP

Sushi Rolls



YELLOWTAIL URAMAKI (GF) . 18
MANGO, AVOCADO, ASPARAGUS, AJI MAYONNAISE



AMARU SPICY TUNA ROLL (GF) . 19
AVOCADO, SPICY MAYO

SICAN ROLL (GF) . 18
TUNA, YELLOWTAIL, SALMON, TRUFFLE SALSA, ORANGE TOBIKO



WAGYU BEEF URAMAKI (GF) . 24
AVOCADO, ASPARAGUS, CUCUMBER, CASO FRESCO, UNAGI SAUCE

CRISPY SALMON MAKI . 21
CASO FRESCO, AVOCADO, ASPARAGUS, TRUFFLE MAYO, UNAGI SAUCE



VEGAN ROLL (VG) (GF) . 13
TAKUAN, ASPARAGUS, FLAMED ROMANO PEPPER, MISO SAUCE



NIGIRI
EACH

SASHIMI
EACH

YELLOWTAIL (GF) , JALAPENO, SOY 5 4.5

SALMON, ORANGE TOBIKO, SPICY MAYO 4.5 4

SEA BASS (GF) , AJI PANKA CREMA 4.75 4.25

TUNA (GF) , WASABI STEAM 6 5.5

KING CRAB GUNCAN CASO FRESCO, CAVIAR 9

AVOCADO (VG) , YUZU TRUFFLE SALSA 3

Cold Appetisers



SALMON JALEPEN0 & YUZU (GF) . 12.5

YELLOWTAIL JALEPEN0 & YUZU (GF) . 14.5

TORTILLA & DIPS (VG) 10.5
HOME-MADE GUAC. GARLIC & MINT MAYO. SALSA

SPICY MISO TACOS . 14.5
SALMON, YELLOWTAIL, DICED SASHIMI, SASHIMI, CORIANDER CRESS

Warm Appetisers

EDAMAME (VG) (GL) . 5.5

SEA SALT.

PADRON PEPPERS (VG) (GL) . 5.5

DEN MISO SAUCE, SESAME SEED.

CROQUETTES CASAVA (VLI) . 10.5

MAIZ CASO, TRUFFLE SAISA

TOGAROSHI SALT & PEPPER CHILLI SQUID 13.5

TOPPED WITH YUZU & CORIANDER, SERVED WITH WASABI MAYO

LOBSTER GYOZA . 16

SHRIMPS, SWEET POTATO PONZU SAUCE, SESAME SEEDS

WAGYU BEEF TACOS 14

SOFT SHELL TACOS, TENDER WAGYU BEEF WITH RED ONION, MISO & AJI LIMO

VEGETABLES TEMPURA (VG) 13.5

CRISPY TEMPURA, TOPPED WITH YUZU & CORIANDER DRESSING, SERVED WITH WASABI MAYO



Mains



YAKITORI CHICKEN SKEWERS (GF) MARINATED IN KIKKOMAN SOY, GRATED YUZU ZEST WITH
FERY SHICHIMI TOGARASHI SPICES.

18



ABERDEEN GRILLED BEEF FILLET (GF) (200G) , TRUFFLE TERIYAKI & CHIMICHURRI SAUCE

30



BLACK COD (GF) , AJI PANCA MISO MARINATED , YUZU JUICE CHOPPED CHIVES

28



NASU MISO (GF) (VG) , BAKED AUBERGINE, DEN MISO SAUCE, SESAME SEEDS, RED CHILLI

16



NOBASHI EBI PRAWN TEMPURA SERVED WITH YUZU TRUFFLE DRESSING, GARNISHED WITH SHISO LEAVES & CHIVES

18



GRILLED LAMB CUTLET (GF) , AJI HONEY SALSA, POMEGRANATE, CORIANDER

28

Sides

PATATAS BRAVAS (VG) (GF) AVOCADO, FIERY HABANERO PEPPERS, TOMATOES, TOPPED WITH SPRINKLE OF TOASTED PEPTAS SEEDS

8.5

BBQ TENDER STEM BROCCOLI (VG) , SESAME SEEDS, PONZU.

9

JAPANESE MUSHROOM UDON NOODLES (VG) , SERVED WITH BLACK BEANS SAUCE BUTTER SAUCE

8.5



IMPORTANT INFORMATION: All our food are prepared in a kitchen where known allergens maybe present. Please note we take caution to prevent cross-contamination, however, any product may contain traces as our entire menu is produced in the same kitchen. Our menu descriptions do not include all the ingredients used to make the dish. Therefore, if you have a food allergy please speak to a Management before placing an ordering. Full allergen information is available. Management can advise of all ingredients used.



18 December

Dear All.

We think Sican are playing a game with us. They are moving their customers up to Goodge St after each of the 2 hour bottomless drinking sessions and telling anyone who goes out of the premises for a smoke that if they are noisy they won't be allowed back in again. We presume they are doing this, so they can go into the Licence review meeting on January 23rd and say, " We have made some of the changes requested by the residents and our bottomless drinks promotions have continued and we have shown we can control the customers when they leave as there is now less disturbance to residents " .

If they get to keep the bottomless drinking sessions and live DJ's etc, then we don't think it will be long before they revert to how it was before, and we have all the noise. It's also winter now, so less people hanging around.

BUT it's now more important than ever to report any disturbance to the council, whether it's on Saturday or Sunday after noon or evening. These reports will be mentioned at the meeting if Sican try to do the above. The committee will ask the council noise officer if there have been any complaints.

Please report any noisy disturbance from Sican customers using the online Camden site. Here: <https://www.camden.gov.uk/noise>

It's very quick and simple. You will need Sican's address 26-28 whitfield St, W1T 2RG

Thanks

Crabtree and Colville Residents group.

In the Camden Licensing Sub-Committee

**In the matter of a Review of the Premises Licence for Sican, 26-28 Whitfield Street,
London W1T 2RG**

IMAGE DOCUMENT

















Right to Work - Management Handbook

1. **Employing Workers - Sican Checklist**
2. **HMRC - Starter Checklist**
3. **Right to Work Checks - Process Map (Copy of Peninsula Guidance)**
4. **Right to Work Checks (Copy of Peninsula Guidance)**
5. **Employing Foreign Nationals (Copy of Peninsula Guidance)**
6. **Summary Guide - Prevent Illegal Work**
7. **Comprehensive Guide - Prevent Illegal Work**



Right to Work Check Checklist

STEP 1: DETERMINE THE TYPE OF CHECK REQUIRED

- Manual Right to Work Check: For all individuals.
- IDVT via IDSP: For British and Irish citizens with valid passports.
- Home Office Online Right to Work Check: For non-British and non-Irish citizens with specific immigration statuses.

STEP 2: OBTAIN AND VERIFY DOCUMENTS

Manual Right to Work Check (All)

1. Obtain Original Documents:

- List A (Continuous Statutory Excuse):
 - British passport (current or expired)
 - Irish passport or passport card (current or expired)
 - Document from Jersey, Guernsey, or Isle of Man showing unlimited leave to enter/remain
 - Current passport with no time limit on stay
 - Current Immigration Status Document with no time limit on stay, plus National Insurance number
 - UK birth/adoption certificate plus National Insurance number
 - Channel Islands, Isle of Man, or Ireland birth/adoption certificate plus National Insurance number
 - Certificate of registration/naturalisation as a British citizen plus National Insurance number
- List B (Time-Limited Statutory Excuse):
 - Current passport with limited leave to stay and work
 - Document from Jersey, Guernsey, or Isle of Man with limited leave to stay and work
 - Current Immigration Status Document with limited leave to stay and work, plus National Insurance number

2. Check Document Validity:

- Verify the document is genuine and belongs to the holder.
- Ensure photographs and dates of birth are consistent.
- Check expiry dates and work restrictions.
- Verify reasons for any name differences with supporting documents (e.g., marriage certificate).

3. Make and Retain Copies:

- Copy all relevant pages of passports and other documents.
- Record the date of the check on the copies.
- Store copies securely for the duration of employment and two years after.

IDVT via IDSP (British and Irish Citizens Only)

1. Obtain Valid Passport:
 - British or Irish passport (valid, not expired).
2. Use IDSP for Digital Verification:
 - Ensure the IDSP meets a minimum of a Medium Level of Confidence.
 - Verify the photograph and biographic details match the individual.
3. Retain Evidence:
 - Keep a clear copy of the IDVT identity check output for the duration of employment and two years after.

Home Office Online Right to Work Check (Non-British and Non-Irish Citizens)

1. Obtain Share Code:
 - From the individual, valid for 90 days.
2. Conduct Online Check:
 - Visit 'Check a job applicant's right to work: use their share code' on GOV.UK.
 - Enter the share code and the individual's date of birth.
 - Verify the photograph matches the individual.
3. Retain Evidence:
 - Keep the 'profile' page confirming the individual's right to work for the duration of employment and two years after.

STEP 3: FOLLOW-UP CHECKS (IF APPLICABLE)

- Conduct follow-up checks before the expiry of time-limited right to work permissions.

STEP 4: TUPE TRANSFERS

- Conduct fresh right to work checks within 60 days of the transfer for acquired employees.

STEP 5: CONTACT HOME OFFICE EMPLOYER CHECKING SERVICE (IF NECESSARY)

- When presented with non-digital Certificates of Application, Application Registration Cards, or other specific circumstances.

STEP 6: RECORD KEEPING

- Maintain secure records of all checks and documents for the duration of employment and two years after.

By following this checklist, you can ensure compliance with right to work requirements and avoid penalties.



Do not send this form to HM Revenue and Customs (HMRC)

Instructions for employer

Use this starter checklist to gather information about your new employee if they do not have a P45. You can also use this form if they have a student loan (whether or not they have a P45). Use the information to help fill in your first Full Payment Submission (FPS) for this employee. If you have already submitted your first FPS, keep using the tax code in that FPS until HMRC sends you a new tax code. If the employee gives you their P45 after the first FPS submission, use the tax code shown in parts 2 and 3 of the P45. You must keep the information recorded on the starter checklist for the current and next 3 tax years. This form is for your use only.

Instructions for employee

Fill in this form if you do not have a P45 (a document you get from your employer when you stop working for them). You should also fill in this form if you have a student loan (whether or not you've a P45). Give the completed form to your employer as soon as possible. They need this information to tell HMRC about you and help them to use the right tax code. Make sure you answer the questions correctly. If you do not, you may pay the wrong amount of tax or student loan deductions.

Employee's personal details

<div>1 Last name</div> <div><input type="text"/></div>	<div>5 Home address</div> <div><input type="text"/></div> <div><input type="text"/></div> <div><input type="text"/></div> <div>Postcode <input type="text"/></div> <div>Country <input type="text"/></div>
<div>2 First names</div> <div>Do not enter initials or shortened names for example, Jim for James or Liz for Elizabeth</div> <div><input type="text"/></div> <div><input type="text"/></div>	<div>6 National Insurance number (if known)</div> <div><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></div>
<div>3 What is your sex?</div> <div>As shown on your birth certificate or gender recognition certificate</div> <div>Male <input type="checkbox"/> Female <input type="checkbox"/></div>	<div>7 Employment start date DD MM YYYY</div> <div><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></div>
<div>4 Date of birth DD MM YYYY</div> <div><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/><input type="text"/></div>	

Employee statement

These questions will help you to choose the statement that matches your circumstances. The statement you choose helps your employer to apply the correct tax code.

8 Do you have another job?

Yes ☐ Put an 'X' in the statement C box below

No ☐ Go to question 9

9 Do you receive payments from a State, workplace or private pension?

Yes ☐ Put an 'X' in the statement C box below

No ☐ Go to question 10

10 Since 6 April have you received payments from:

- another job which has ended or any of the following taxable benefits
- Jobseeker's Allowance (JSA)
- Employment and Support Allowance (ESA)
- Incapacity Benefit

Yes ☐ Put an 'X' in the statement B box below

No ☐ Put an 'X' in the statement A box below

For more information about tax codes, go to www.gov.uk/tax-codes

Statement A	Statement B	Statement C
<input type="checkbox"/> Current personal allowance	<input type="checkbox"/> Current personal allowance on a Week 1/Month 1 basis	<input type="checkbox"/> Tax Code BR
Key This is my first job since 6 April and since the 6 April I have not received payments from any of the following: <ul style="list-style-type: none"> • Jobseeker's Allowance • Employment and Support Allowance • Incapacity Benefit 	Key Since 6 April I have had another job but I do not have a P45. And/or since the 6 April I have received payments from any of the following: <ul style="list-style-type: none"> • Jobseeker's Allowance • Employment and Support Allowance • Incapacity Benefit 	Key I have another job and/or I am in receipt of a State, workplace or private pension.
Key Jobseeker's Allowance (JSA) is an unemployment benefit which can be claimed while looking for work. Employment and Support Allowance (ESA) is a benefit which can be claimed if you have a disability or health condition that affects how much you can work. Incapacity Benefit is help if you could not work because of an illness or disability before 31 January 2011. State Pension is a pension paid when you reach State Pension age. Workplace pension is a pension which was arranged by your employer and is being paid to you. Private pension is a pension arranged by you and is being paid to you. Please note that no other Government or HMRC paid benefits need to be considered when completing this form.		

Student loans

11 Do you have a student or postgraduate loan?

Yes ☐ Go to question 12

No ☐ Go straight to the Declaration

12 Do any of the following statements apply:

- you're still studying on a course that your student loan relates to
- you completed or left your course after the start of the current tax year, which started on 6 April
- you've already repaid your loan in full
- you're paying the Student Loans Company by Direct Debit from your bank to manage your end of loan repayments

Yes ☐ Go straight to the Declaration

No ☐ Go to question 13

13 To avoid repaying more than you need to, tick the correct student loan or loans that you have – use the guidance on the right to help you.

Please tick all that apply

Plan 1 ☐

Plan 2 ☐

Plan 4 ☐

Postgraduate loan (England and Wales only) ☐

Employees, for more information about the type of loan you have or to check your balance, go to www.gov.uk/sign-in-to-manage-your-student-loan-balance

Employers, for guidance on student loans and which plan or loan type to use if your employee has selected more than one, go to www.gov.uk/guidance/special-rules-for-student-loans

You have Plan 1 if any of the following apply:

- you lived in Northern Ireland when you started your course
- you lived in England or Wales and started your course before 1 September 2012

You have Plan 2 if:

You lived in England or Wales and started your course on or after 1 September 2012.

You have Plan 4 if:

You lived in Scotland and applied through the Students Award Agency Scotland (SAAS) when you started your course.

You have a postgraduate loan if any of the following apply:

- you lived in England and started your postgraduate master's course on or after 1 August 2016
- you lived in Wales and started your postgraduate master's course on or after 1 August 2017
- you lived in England or Wales and started your postgraduate doctoral course on or after 1 August 2018

Declaration

I confirm that the information I've given on this form is correct.

Full name Use capital letters

Signature

Date DD MM YYYY

Give this form to your employer

Your employer will use the information to make sure you pay the right amount of tax.

Do not send this form to HMRC.

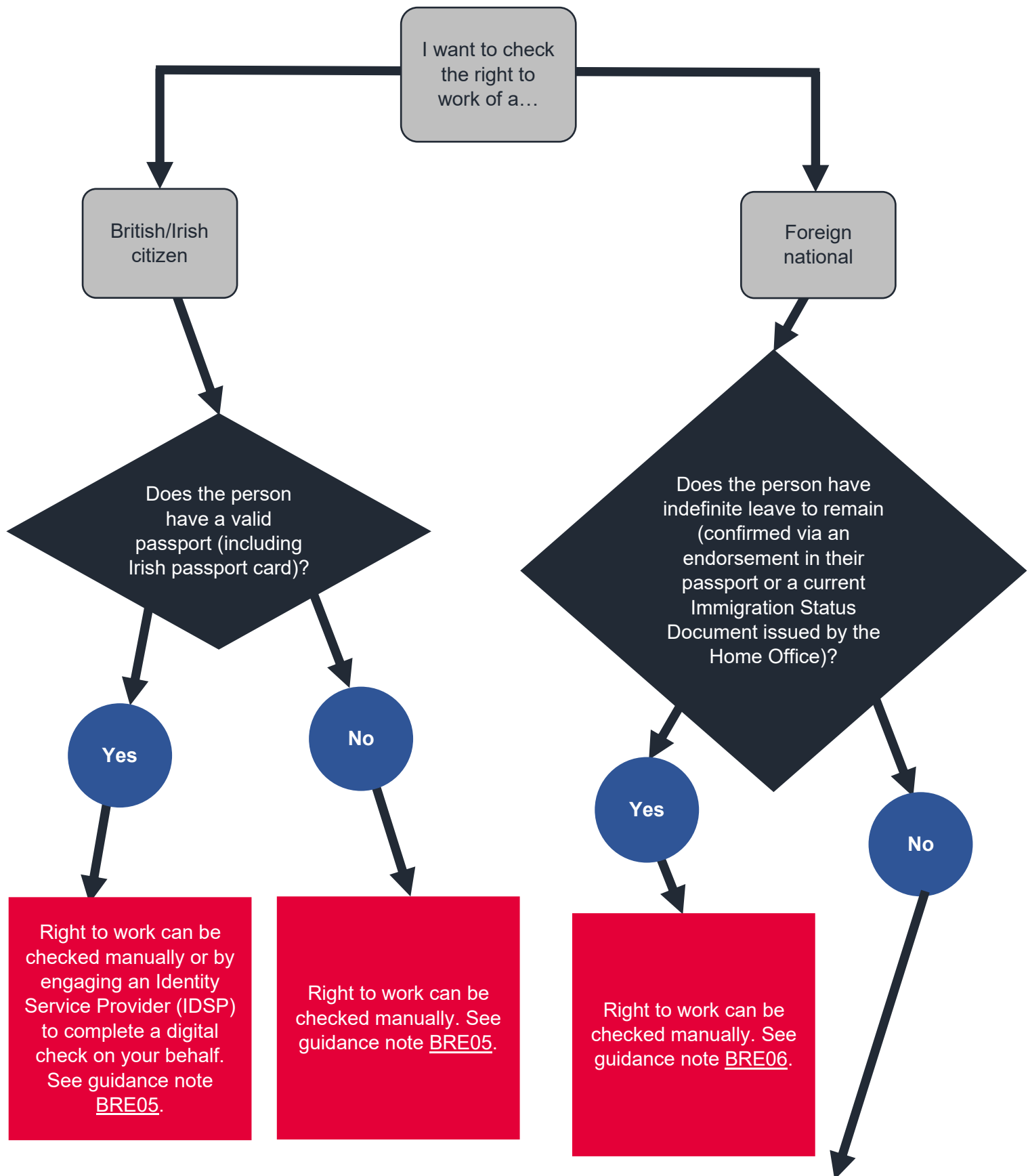
Employer guidance

For information on how to work out your new employee's tax code, go to www.gov.uk/new-employee-tax-code

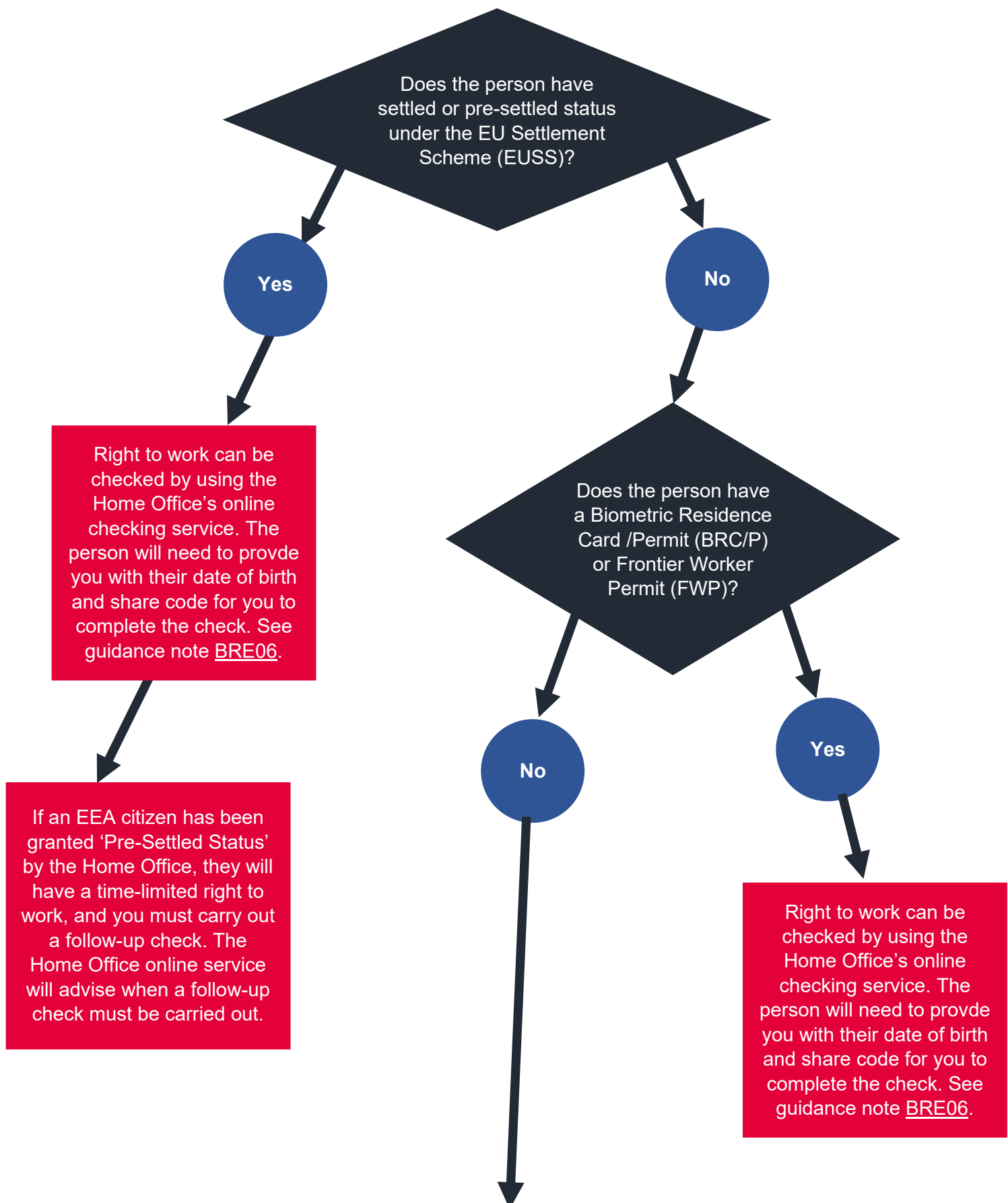
Use Statement A, B or C that your employee has chosen in the employee statement section and apply the tax code below:

- Statement A - use the current personal allowance
- Statement B - use the current personal allowance on a 'week 1/month 1' basis
- Statement C - use tax code BR

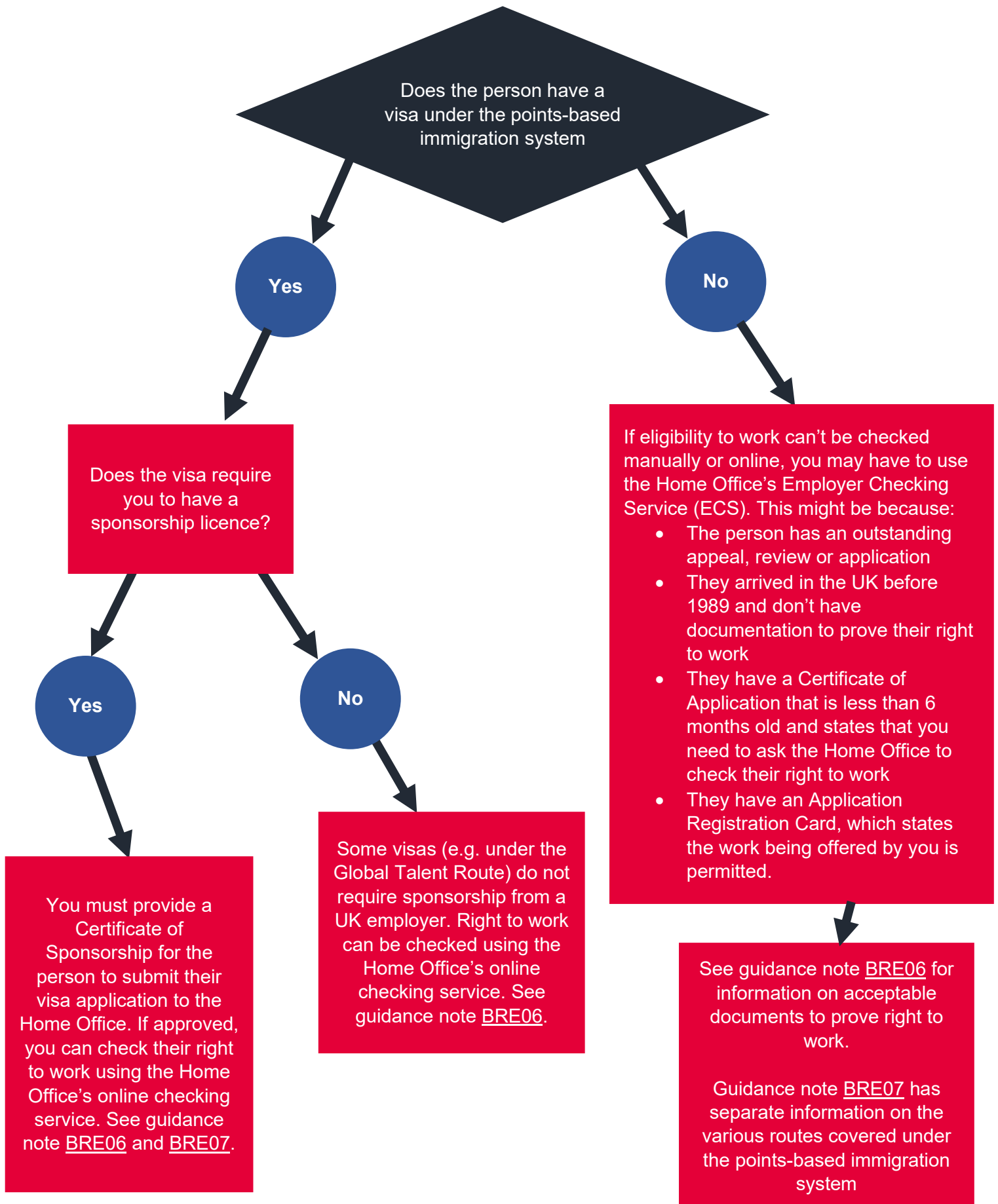
Right to work checks Process Map



Right to work checks Process Map



Right to work checks Process Map





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Right to work checks

Guidance Note

30 Second Read

[Why do I need to prevent illegal working?](#)

[When do I need to do a right to work check?](#)

[Who do I need to do a right to work check on?](#)

[How does a TUPE transfer impact right to work checks?](#)

[How do I complete a right to work check?](#)

[Manual right to work check \(all\)](#)

[Right to work check using IDVT via the services of an IDSP \(British and Irish citizens only\)](#)

[Home Office online right to work check \(non-British and non-Irish citizens\)](#)

[When do I need to contact the Home Office Employer Checking Service to verify right to work?](#)

[What should I do if I completed a right to work check under the temporary changes during the Covid pandemic?](#)

30 SECOND READ

- Employers are legally required to prevent illegal working. A failure to do so can result in a civil penalty of up to £60,000.
- A 'statutory excuse' against the civil penalty can be obtained by carrying out a right to work check.
- How you carry out a right to work check depends on the circumstances of the individual. It might be that it can be carried out manually (all), using IDVT via the services of an IDSP (British and Irish citizens only), or by using the Home Office online right to work check (non-British and non-Irish citizens).
- You should ask all prospective employees to demonstrate their right to work.
- If a person's right to work is time-limited, you should conduct a follow-up check before it is due to end.
- Employers who acquire staff following a TUPE transfer are advised to undertake a fresh right to work check on those employees they have acquired.



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WHY DO I NEED TO PREVENT ILLEGAL WORKING?

Employers have a legal duty to prevent illegal working and can be subjected to penalties if they fail to do so.

There is a civil penalty in place where an employer can be fined up to £45,000 for each illegal worker who does not have the correct permission to carry out the work they are employed to do. For repeated breaches, the employer can be fined up to £60,000 per illegal worker.

To gain a 'statutory excuse' against the civil penalty, you need to carry out right to work checks in accordance with the Home Office's checking process. You should also only make offers of employment conditional upon the completion of successful right to work checks.

A criminal offence will be committed if you employ an individual and 'reasonable cause to believe' they do not have the right to work in the UK. It can also lead to disqualification as a company director, being prohibited from sponsoring migrants and the seizure of earnings made because of the illegal work.

WHEN DO I NEED TO DO A RIGHT TO WORK CHECK?

You should conduct a right to work check before you employ a person to ensure they are legally allowed to do the work in question for you.

If a person's right to work is time-limited, you should conduct a follow-up check before it is due to end.

Where right to work is not time-limited, you will establish a continuous statutory excuse for the duration of the person's employment if you complete the check correctly before they begin, meaning you

won't have to conduct any further checks on that individual.

WHO DO I NEED TO DO A RIGHT TO WORK CHECK ON?

You should ask all prospective employees to demonstrate their right to work. You should not discriminate when conducting right to work checks. You should be consistent in how you conduct right to work checks on all prospective employees, including British citizens, and ensure job selections are made based on suitability for the post.

You should not only check the status of those who appear likely to be migrants and you should not make assumptions about a person's right to work based on their colour, ethnic or national origins, nationality, accent, surname, or length of time they have been resident in the UK.

Failure to adhere to the above may risk an employer acting in a discriminatory way and facing claims of race discrimination.

HOW DOES A TUPE TRANSFER IMPACT RIGHT TO WORK CHECKS?

Transfer of Undertakings (Protection of Employment) (TUPE) Regulations 2006 provide that right to work checks carried out by the transferor (seller/old employer) are deemed to have been carried out by the transferee (buyer/new employer). This means that the new employer will obtain the benefit of any statutory excuse established by the old employer.

However, if the old employer did not conduct the original checks correctly, the new employer would be liable for a penalty if an employee, who commenced work on or after 29 February 2008, is later found to be working illegally. Also, a check by the new employer may be the only way to determine when any follow-up check



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should be carried out in respect of employees with time-limited permission to work in the UK.

Employers, therefore, who acquire staff in cases of TUPE transfers are advised to undertake a fresh right to work check on those they have acquired. Employers are not required to have a statutory excuse in respect of employment which commenced before 29 February 2008, where the individual has been in continuous employment prior to that date. This includes where employment has continued as part of a TUPE transfer.

New employers have 60 calendar days from the date of the transfer of the business to correctly carry out fresh right to work checks in respect of those TUPE employees they have acquired. There is no grace period for any subsequent follow-up checks.

HOW DO I COMPLETE A RIGHT TO WORK CHECK?

There are three types of right to work checks which depend on the circumstances of the individual. The Code of Practice 'Employer's guide to right to work checks' published by the Home Office on 8 February 2024 must be followed.

1. Manual right to work check (all)

There are three steps that you must complete for a manual right to work check:

Firstly, you must **obtain** original documents from either List A or List B (see below). Copies or photographs of documents cannot be accepted.

Secondly, 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 that

you are offering. When checking the validity of the document, you must be in presence of the holder. This can be a in person or via live video call link, but you must be in physical possession of the original documents. For example, the person may choose to post the documents to you, to enable you to conduct the check with them via live video link. You cannot rely on the inspection of the document via live video link or by checking a faxed or scanned copy of the document.

You must check that:

- Photographs and dates of birth are consistent across documents and with the person's appearance 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 they 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 the 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 (e.g. original marriage certificate, divorce decree absolute, deed poll).

Thirdly, you must make a clear **copy** of each document in a format which cannot manually be altered and retain the copy securely, either electronically or in hardcopy. You must copy and retain copies of:

- Passports: any page with the document expiry date, the holder's nationality, date of birth, signature, immigration permission, expiry



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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. You do not need to make a copy of the front cover.

- All other documents: the document in full, including both sides of an Immigration Status Document and an Application Registration Card.

You must also retain a secure record of the date on which you made the check. This requires more than simply writing the date on the copy document. If you write a date on the copy document, you must also record that this is the date on which you conducted the check.

All copies of documents taken should be kept securely for the duration of employment and for two years afterwards. The copy must then be securely destroyed.

2. Right to work check using IDVT via the services of an IDSP (British and Irish citizens only)

Since 6 April 2022, employers can use Identity Document Validation Technology (IDVT) via the services of an Identity Service Provider (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).

Digital identity verification conducted by IDSPs is the process of obtaining evidence of the prospective employee's identity, checking that it is valid and belongs to the person who is claiming it.

For the purposes of verifying identity for right to work checks through IDVT, only

the following specified documents can be accepted:

- Valid British passports
- Valid Irish passports
- Valid Irish passport cards

If an individual is reliant upon an expired British or Irish passport (including passport card) to prove their eligibility for the purpose of a right to work check, and IDVT check is not valid. The employer will need to carry out a manual check of the original document in the prescriber manner to obtain a statutory excuse.

You must satisfy yourself that the photograph and biographic details, for example, date of birth, on the output from the IDVT check are consistent with the person presenting themselves for work. This can be done in person or by video call.

You must keep 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.

IDSPs can carry out digital identity verification to a range of standards or 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 on "GOV.UK: Digital identity certification for right to work, right to rent and criminal record checks". You don't have to use a certified provider but you must be satisfied that they are able to provide the required checks.

It is your responsibility to obtain evidence of the IDVT check from the IDSP.

You must not treat those who do not hold a valid passport, or do not wish to prove their identity using an IDSP less favourably. You must provide individuals with other ways to prove their right to work and should carry out a manual document-



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based right to work check in these circumstances.

Whilst it is not mandatory for employers to complete right to work checks for British and Irish citizens using IDVT via the services of an IDSP, the Home Office recommends employers do so.

3. Home Office online right to work check (non-British and non-Irish citizens)

It will not be possible to conduct a Home Office online right to work check in all circumstances.

Currently, it can only be used in respect of those who hold:

- A biometric residence permit
- A biometric residence card
- Status issued under the EU Settlement Scheme
- A digital Certificate of Application to the EU Settlement Scheme issued on or before 30 June 2021
- Status issued under the points-based immigration system
- British National Overseas (BNO) visa
- Frontier workers permit.

Individuals who have been issued with an eVisa 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 use the online service to prove their right to work. This means that you cannot accept or check a physical BRC, BRP, or FWP as proof of right to work.

Where an online check is not possible because the individual does not have an immigration status that can be checked online, a manual check will be needed.

To carry out an online check, you will need to visit 'Check a job applicant's right to work: use their share code' on the GOV.UK. You will need a share code from the individual. The individual may provide the share code to you directly, or they may choose to send this to you via the service in which case you will receive an email from

right.to.work.service@notifications.service.gov.uk.

Once you have the shared code you can enter this and the individual's date of birth to access the required information. The share code will be valid for 90 calendar days from the point it has been issued. You will need to ask the individual to provide you with a new code if the one they originally provided has expired. It is not sufficient to view the details provided by the individual on the migrant part of the service.

You will need to check the photograph on the online right to work check is of the individual presenting themselves for work. This can be done in person or by video call.

You must retain evidence of the online right to work check. This should be the 'profile' page confirming the individual's right to work. This is the page that includes the individual's photo and date on which the check was conducted. You should store this correctly for the duration of employment and for two years afterwards.

WHEN DO I NEED TO CONTACT THE HOME OFFICE EMPLOYER CHECKING SERVICE TO VERIFY RIGHT TO WORK?

In certain circumstances, you will need to contact the Home Office's Employer Checking Service (ECS) to establish a statutory excuse. These are when:



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- You are presented with a document (non-digital Certificate of Application or an acknowledgment letter or email) confirming receipt of an application to EUSS on or before 30 June 2021
- You are presented with a non-digital Certificate of Application confirming receipt of an application to the EUSS on or after 1 July 2021
- You are presented with a valid Application Registration Card stating that the holder is permitted to undertake the work in question. Any work will be restricted to employment in a shortage occupation.
- You are satisfied that you have not been provided with any acceptable documents and are unable to carry out a check using the online service.
- The person presents other information indicating that they have an outstanding application for permission to stay in the UK with the Home Office, which was made before their previous permission expired or has an appeal or administrative review pending and, therefore, cannot provide evidence of their right to work.
- You consider that you have not been provided with any acceptable documents, but the person presents other information indicating they are a long-term resident of the UK who arrived in the UK before 1988.

In these circumstances, you will establish a statutory excuse only if you are issued with a Positive Verification Notice (PVN) confirming that the named person is allowed to carry out the type of work in question.

WHAT SHOULD I DO IF I COMPLETED A RIGHT TO WORK CHECK UNDER THE TEMPORARY CHANGES DURING THE COVID PANDEMIC?

The government introduced temporary adjusted checks during the Covid pandemic to eliminate the need for in-person checks. This was available from 30 March 2020 until the end of September 2022.

You do not need to carry out retrospective checks on employees who had a COVID-19 adjusted check. You will maintain a statutory excuse against liability for a civil penalty if the check was carried out correctly at the time.



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ACCEPTABLE RIGHT TO WORK DOCUMENTS - MANUAL CHECKS

List A – acceptable documents to establish a continuous statutory excuse

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(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.
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.
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 – documents where a time-limited statutory excuse lasts until the expiry date of permission to enter or permission to stay

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.
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



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	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.
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List B Group 2 – documents where a time-limited statutory excuse lasts for six months

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) on or before 30 June 2021 together with a Positive Verification Notice from the Home Office 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), 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.



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Employing foreign nationals

Guidance Note

30 Second Read

[How do foreign nationals prove their right to work?](#)

[EU Settlement Scheme](#)

[Other routes](#)

[What is the points-based system visa?](#)

[How does the skilled worker route work?](#)

[How does the Health and Care Worker visa work?](#)

[How does the Global Talent route work?](#)

[How does the Global Business Mobility visa work?](#)

[What is the Scale-Up Worker visa?](#)

[What visa schemes are in place for Ukrainian nationals?](#)

[Do I need to apply for a sponsorship licence?](#)

[What is the Immigration Health Surcharge?](#)

30 SECOND READ

- EEA citizens who have been granted 'settled status' under the EU Settlement Scheme will have a continuous right to work. 'Pre-settled status' means that the individual has a time-limited right to work.
- Those who do not have status under the EU Settlement Scheme may have the right to work in the UK through the points-based system visa.
- There are various routes under the points-based system including the Skilled Worker visa, Global Talent visa, Health and Care Worker Visa, Global Business Mobility, and Scale-up Worker.
- For most of these routes an employer must have a sponsorship licence. See guidance note BRE06 'Sponsoring foreign nationals' for more information.
- Right to work checks must be carried out for all prospective employees. See guidance note BRE05 'Right to Work Checks' for more information.



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HOW DO FOREIGN NATIONALS PROVE THEIR RIGHT TO WORK?

EU Settlement Scheme

Following the UK's exit from the EU, free movement ended on 31 December 2020 at 11pm. EEA nationals who were resident in the UK before this date had to apply to the EU Settlement Scheme (EUSS) to obtain authorisation to stay in the UK and to work. The deadline to apply was 30 June 2021.

If an EEA citizen has been granted 'settled status' by the Home Office, they will have a continuous right to work.

'Pre-settled status' means that the individual has a time-limited right to work. From December 2023, the Home Office has automatically extended EUSS pre-settled status holders' immigration status before the current grant of pre-settled status expired to ensure individuals do not lose any rights and entitlements where a further application to the EUSS has not been made. In May 2024, the Home Office confirmed that the duration of automatic pre-settled status extensions is five years, instead of two. There used to be a requirement to carry out a follow-up right to work check but since May 2024, the follow-up check is now no longer needed.

Those with status under the EUSS will have to use the Home Office online right to work check. There is no requirement for a retrospective check to be carried out for individuals who entered employment before 1 July 2021 if the initial check was carried out correctly at the time.

Other routes

Since 1 July 2021, there will be some groups of EEA citizens who will not have status under the EUSS. They will evidence their right to work using specific documents, some of which can be

checked manually, others must be checked using the Home Office online system:

- Frontier Worker Permits
- Service Provider of Switzerland visa
- Outstanding applications to UK EUSS
- Outstanding applications to Crown Dependency EUSS
- EEA citizens with indefinite Leave to Enter/Remain
- Points-based system visas

WHAT IS THE POINTS-BASED SYSTEM?

On 1 January 2021, a new points-based immigration system came into operation which applies to all non-British and Irish citizens who do not already have the right to abode or are settled in the UK (i.e. have settled or pre-settled status under the EU Settlement Scheme (EUSS)).

Under this system, anyone coming to the UK for work must meet a specific set of requirements for which they will score points. Visas are then awarded to those who gain enough points.

There are various routes available for entry to the UK for work, including:

- Skilled Worker visa
- Global Talent visa
- Health and Care Worker visa
- Senior or Specialist Worker visa (Global Business Mobility)
- Scale-up worker
- Start up and innovator visa
- Graduate visa

HOW DOES THE SKILLED WORKER ROUTE WORK?

The Skilled Worker route replaced the old Tier 2 visa for foreign workers and came into force in December 2020. There is no limit on the number of visas that can be



issued each year. Foreign workers may also switch from most other visa types to a Skilled Worker visa if they meet the eligibility criteria.

This Skilled Worker visa involves workers obtaining sponsorship from an approved UK employer and scoring the necessary points to qualify; applicants need to achieve 70 points in total, made up of 50 mandatory points and 20 tradeable points.

Mandatory points:

Anyone hired under this route must demonstrate the following, for which they will receive their 'mandatory points':

- A job offer from an approved sponsor - **20 points**
- A job at the required skill level (RQF 3 or above/A Level and equivalent) - **20 points**
- English language to a required level (this will need to be evidenced by completing a test or having a degree in English language similar to an English bachelors) - **10 points**

Tradable points:

To get the remaining 20 points the job offer must meet the applicable minimum salary threshold. This is the higher of either:

- The general salary threshold of £38,700 set by the government on advice of the independent Migration Advisory Committee; or
- The specific salary requirement for their occupation, known as the "going rate."

It is expected that only the applicant's basic salary will count towards the tradeable points criteria.

If the salary does not meet this requirement, applicants will be able to trade characteristics, such as their

qualifications, against a lower salary to get the 20 tradeable points:

- If the individual has a PhD in a subject relevant to the job and their salary equals or exceeds both:
 - £34,830 per year; and
 - 90% of the "going rate" for that occupation
- If the individual has a PhD in a STEM subject relevant to the job and their salary equals or exceeds both:
 - £30,960 per year; and
 - 80% of the "going rate" for that occupation
- The individual is being sponsored for a job on the Immigration Salary List and their salary equals or exceeds both:
 - £30,960 per year; and
 - The "going rate" for that occupation
- The individual is a new entrant at the start of their career and their salary equals or exceeds both:
 - £30,960 per year and
 - 70% of the "going rate" for that occupation

If the individual's first Certificate of Sponsorship was issued on or before 3 April 2024, the following tradeable points are available:

- Salary only: the individual's salary equals or exceeds both £29,000 per year and the "going rate" for that occupation.
- Relevant PhD: the individual has a PhD in a subject relevant to the job and their salary equals or exceeds both:
 - £26,100 per year; and
 - 90% of the "going rate" for that occupation
- Relevant STEM PhD: the individual has a PhD in a STEM subject relevant to the job and their salary equals or exceeds both:
 - £23,200 per year; and



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- 80% of the “going rate” for that occupation
- Listed occupation: the individual is being sponsored for a job on the Immigration Salary List and their salary equals or exceeds both:
 - £23,200 per year; and
 - The “going rate” for that occupation
- New entrant: the individual is a new entrant at the start of their career and their salary equals or exceeds both:
 - £23,200 per year and
 - 70% of the “going rate” for that occupation

HOW DOES THE HEALTH AND CARE WORKER VISA WORK?

A Health and Care Worker visa is part of the skilled worker route. It allows medical professionals to come to or stay in the UK to do an eligible job with the NHS, and NHS supplier or in adult social care.

To qualify for a Health and Care Worker visa, individuals must:

- Be a qualified doctor, nurse, health professional or adult social care professional
- Work in an eligible health or social care job
- Work for a UK employer that has been approved by the Home Office
- Have a ‘certificate of sponsorship’ from your employer with information about the role they have been offered in the UK
- Be paid a minimum salary – how much depends on the type of work they do.

Employers of care workers or senior care workers in England must be registered with the Care Quality Commission.

This visa allows individuals to stay in the UK for up to 5 years, at which point it can

be renewed or an application can be made for permanent residence.

HOW DOES THE GLOBAL TALENT ROUTE WORK?

The Global Talent route enables highly skilled individuals to enter the UK if they are a leader or a potential leader in one of the following fields:

- Science
- Medicine
- Engineering
- Humanities
- Social science

The individual must obtain an endorsement from an endorsing body directly unless they’ve won an eligible award.

This visa allows individuals to stay in the UK for up to 5 years, at which point it can be renewed or an application can be made for permanent residence. You do not need to be a licensed sponsor to employ an individual under the Global Talent route.

There are no language or minimum salary requirements with the Global Talent route.

HOW DOES THE GLOBAL BUSINESS MOBILITY VISA WORK?

The Global Business Mobility routes are for overseas businesses who need to temporarily send workers to the UK for a specific purpose that cannot be done by a settled worker.

There are five routes which are:

- Senior or Specialist Worker
- Graduate Trainee
- UK Expansion Worker
- Service Supplier
- Secondment Worker



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Under this visa, workers can undertake a temporary assignment in the UK, which may be extended. However, the visa does not grant permanent settlement in the UK.

The worker will need a valid Certificate of Sponsorship from a Home Office approved employer authorised to sponsor that category of worker.

WHAT IS THE SCALE-UP WORKER VISA?

A Scale-up Workers visa allows an individual to come to the UK to do an eligible job for a fast-growing business.

To qualify the individual must:

- Have a confirmed job offer to work for an approved scale-up business for at least 6 months
- Have a 'certificate of sponsorship' from their employer with information about the role offered in the UK
- Have a job offer to do a job that's on the list of eligible occupations
- Be paid a minimum salary in their new job.

They must also be able to speak, read, write and understand English.

It allows the individual to stay in the UK for 2 year after which they will need to apply to extend the visa.

WHAT VISA SCHEMES ARE IN PLACE FOR UKRAINIAN NATIONALS?

Individuals who have permission under the 'Homes for Ukraine' programme have permission to enter for six months, which

can be extended up to a maximum of three years. They have the right to work, study and claim benefits in the UK. They will receive a Biometric Residence Permit.

DO I NEED TO APPLY FOR A SPONSORSHIP LICENCE?

Since 1 January 2021, you must have a sponsorship licence to employ a foreign national through most immigration routes. Sponsorship licences are not needed to employ an individual who has status under the EU Settlement Scheme (or who is a British/Irish National).

Employers can sponsor an employee only if the role meets the minimum requirements. An employer who is a sponsor can issue sponsorship certificates to foreign nationals who will then use it as part of their visa application.

See guidance note BRE07 'Sponsoring foreign nationals' for more information

WHAT IS THE IMMIGRATION HEALTH SURCHARGE?

Most individuals need to pay the Immigration Health Surcharge (IHS) as part of their online immigration application.

The IHS is not payable where UK immigration permission is granted for six months or less. For anything longer, it is set at a rate of £1,035 per year, per individual. Where the individual has a part-year immigration permission of up to six months, they must pay £517.50 for that period. Should the part-year be for more than six months, the full annual amount of £1,035 for that part-year is payable.



SUMMARY GUIDE FOR EMPLOYERS ON PREVENTING ILLEGAL WORKING IN THE UK

April 2012

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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/

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/

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.

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.

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/

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.

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/

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.

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

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.

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/

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/ and on the Sponsoring non-EEA workers pages on our website: 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/

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/

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/

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/

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

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/

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

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

- ☐ 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
- ☐ 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
- ☐ 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
- ☐ 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
- ☐ 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
- ☐ 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
- ☐ 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:



Home Office

Full guide for employers on preventing illegal working in the UK

October 2013

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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 and employing people. It contains important information and advice. It explains:

- the law on illegal working;
- your role and duty as an employer;
- the document checks you should carry out;
- images of 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 document checks and we find you employing an illegal worker.

When we refer to 'we' or 'us' in this guide we mean the Home Office. When we refer to 'you' or 'your' this means the employer.

You can find more information, together with important updates on preventing illegal working, on our website: www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/

Changes to preventing illegal working guidance

We will update this guidance from time to time, so you should check our website regularly for the most up-to-date version. We will use this page to tell you what parts of the guidance have changed.

Where possible, we will consult you through our established partner groups before we make any major changes. But sometimes we may need to make minor changes or to amend the guidance at short notice to deal with unexpected changes. We may not be able to consult you in those cases.

The changes made to this version are:

- The restrictions on Bulgarian and Romanian nationals ending on 31 December 2013;
- Restrictions on Croatian nationals which came into force on 1 July 2013;
- Information on our Fast Payment Option for paying a civil penalty;
- An additional circumstance in which your sponsor licence can be revoked if you receive a civil penalty.

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/

Introduction

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. Any person found working illegally is liable to prosecution and, or removal from the UK.

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.

1: The law and your 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). These rules came into force on 29 February 2008. They replaced the previous rules under section 8 of the Asylum and Immigration Act 1996 (known as the 1996 Act).

These rules are 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.

Your duty under the 2006 Act

Under the 2006 Act you have a duty to prevent illegal working by carrying out document checks to confirm if a person has the right to work in the UK.

You should check and keep copies of original, acceptable documents before someone starts working for you. If a person has a time limit on their stay then you should carry out repeat 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 must not employ them in breach of these restrictions.

You should also verify that a person has the right to work when certain documents or scenarios are presented to you. You can find out more about carrying out document checks in the section 'Right to work document checks'.

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. You can find out more about the previous rules under section 8 of the 1996 Act on our website:

www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/

Penalties if you fail to carry out your duty

If you do not carry out these checks you may be required to pay a fine, known as a civil penalty, under section 15 of the 2006 Act if you employ an illegal worker.

An illegal worker is defined as someone who is:

- subject to immigration control; and
- aged over 16; and
- not allowed to carry out the work in question because either they have not been granted leave to enter or remain in the UK or because their leave to enter or remain in the UK:
 - is invalid,
 - has ceased to have effect (meaning it no longer applies) whether by reason of curtailment, revocation, cancellation, passage of time or otherwise, or
 - is subject to a condition preventing them from accepting the employment.

A civil penalty up to a maximum amount of £10,000 for each illegal worker can be imposed on you. We can serve you with a Notice of Liability to pay a penalty for a specific amount on behalf of the Secretary of State.

The amount that you are required to pay will be calculated on an individual basis taking into consideration the circumstances of your case. Our 'Civil Penalties for Employers: Code of Practice' booklet sets out what factors we will consider when calculating the amount of your penalty. You can find out more about the factors we consider in the section on 'Civil penalties.' Our Code of Practice booklet can be found on our website at: www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/

Statutory excuse against payment of a civil penalty

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 civil penalty if we find you employing an illegal worker.

However, if you **know** that you are employing a person who is not allowed to work, then you **will not** have an excuse against payment of a civil penalty, **regardless of whether you have carried out any document checks.**

You will commit a criminal offence under section 21 of the 2006 Act if you knowingly employ an illegal worker and you may face up to 2 years' imprisonment and/or an unlimited fine if the case is dealt with at Crown Court.

You can find out more about document checks in the next section 'Right to work document checks'.

Simplifying employer checks

We are committed to making the checks you should do and the types of documents you can accept simpler. We started issuing Biometric Residence Permits (BRPs) to non-European Economic Area (EEA) nationals in November 2008 to help you check identity, immigration status and right to work. In February 2012, we completed the in-country roll out of BRPs and have now issued over 1.2 million BRPs. There will be a further significant increase in the number of BRPs in circulation when we begin to issue BRPs overseas in 2014. The BRP is a standard format being introduced across Europe for residence permits allowing a non-EEA national to stay in a member state for more than 6 months. Over time we are replacing paper based documents with BRPs. You can find a picture of a BRP, which is the size and shape of a driving licence photo card, in the section on 'Acceptable documents for proving right to work'.

You can find out more about BRPs and download guidance for checking the security features on them from on our website:

www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/checking-brp/

2: Right to work document checks

This section explains the document checks you should carry out to find out if a person has both the right to work in the UK and the right to carry out the type of working you are offering. This is a straightforward **3 step process** that should form part of your recruitment and employment practices. This section also explains how to examine the documents, and how, and when, you should repeat these checks for people who have time limits on their right to work.

By carrying out these checks you will ensure that you only employ people who are legally allowed to work for you, and you will also have an excuse against payment of a civil penalty if we find you are employing 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 worker, regardless of any document checks you carry out before or during a person's employment.

Documents showing a right to work

The documents that are acceptable for proving someone has the right to work in the UK are split into two lists.

List A documents show that the holder is **not subject to immigration control, or has no restrictions on their stay**, so they have 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 fine for the duration of that person's employment with you.

List B documents show 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**. If you correctly carry out checks when List B documents are given to you, then you will have an excuse against payment of a fine for **up to 12 months** from the date of the check.

To keep your excuse you must then carry out repeat document checks **at least once every 12 months** to check if the person continues to have the right to work for you. You will keep your excuse for up to a further 12 months from the date on which you carried out the repeat check.

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.

If, when you recheck an employee's documents, they provide you with documents from List A, no further checks are necessary and you will keep your excuse for the remaining duration of the person's employment with you.

If at the time of the checks, a person has an outstanding application with us or appeal to extend their leave in the UK, then you should contact our Employer Checking Service. The Service will confirm that the person has, or continues to have, the right to work here. This confirmation is required should you wish to get, and then keep an excuse against payment of a civil penalty. You can find out more about this in the section on 'Verifying right to work in the UK'.

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.

The 3 step process

You should correctly follow Steps 1 to 3 below for every person you are looking to employ and every existing employee who has a time limit on their right to work.

By doing this, you will make sure that you only employ people who are allowed to work and you will also get, and then keep, an excuse against payment of a civil penalty if you are found employing an illegal worker.

Step 1

You must ask for and be given an acceptable document or combination of documents.

You must only accept original documents.

Details of the acceptable documents included in List A and List B are provided later in the guide in the section on 'Acceptable documents for proving right to work'.

Step 2

You must take all reasonable steps to check that the document is genuine and to satisfy yourself that the holder is the person named in the document. You should also check that the document allows them to do the work in question.

For each document given to you, you must:

- check any photographs are consistent with the appearance of the person; **and**
- check 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**
- check that the expiry dates of any limited leave to enter or remain in the UK have not passed; **and**
- check any UK immigration 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**

- satisfy yourself that the documents are genuine, have not been tampered with and belong to the holder; **and**
- if you are given two documents which have different names, ask them for a further document to explain the reason for this. 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 and retain a copy of the document, in a format which cannot later be altered

A copy can be, for example, a photocopy or scan. However, where an electronic copy is made of a document, it **must** be made using a non-rewritable format, such as CD-R.

You must take a copy of the relevant page or pages of the document. In the case of a passport or other travel document, the following parts must be photocopied or scanned:

- the document's front cover and any page containing the holder's personal details. In particular, you should copy any page that provides details of nationality, their photograph, date of birth, signature, date of expiry or biometric details; **and**
- any page containing UK immigration endorsements showing that the holder has permission to be in the UK and has the right to carry out the work in question.

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

We recommend 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 B 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 a statutory excuse.

You will not have a statutory excuse if:

- you cannot provide a record of having conducted the document checks before recruitment; or
- you have accepted a document which clearly does not belong to the holder; or
- you have conducted a check and it is reasonably apparent that the document is false; or
- you have accepted a document which clearly shows that the person does not have permission to work in the UK and, or carry out the type of work you are offering.

When given false documents

If you are given a false document, you will only be required to pay a civil penalty if it is reasonably apparent that it is false. We consider the falseness to be reasonably apparent if an individual, who is untrained in the identification of false documents, examining it carefully, but briefly, and without the use of technological aids, could reasonably be expected to realise that the document in question is not genuine.

Equally, where a person presents a document and it is reasonably apparent that the person presenting the document is not the person referred to in that document, even if the document itself is genuine they you may be liable to prosecution for knowingly employing an illegal worker.

You will not have an excuse against payment if you knew that the document, or documents, were false or did not rightfully belong to the holder.

You may want to consider using a document scanner to help you check the authenticity of documents presented to you. Guidance about document scanners can be downloaded from www.gov.uk/government/publications/document-scanners.

If someone gives you a false document or a genuine document that does not belong to them, then you should report the individual to us by either calling our Sponsorship and Employers' Helpline on 0300 123 4699 , by emailing us at: UKBApublicenquiries@ukba.gsi.gov.uk or through our 'Reporting a Crime' page on our website: www.ukba.homeoffice.gov.uk/aboutus/contact/report-crime/. You can also call Crime stoppers on 0800 555 111.

When a person does not have the right to work in the UK

If you have carried out these document checks and found that the person you are looking to employ is not allowed to work, then you should refuse employment to them. It is up to the person seeking employment to prove to you that they have the right to do the work you are offering.

When an employee refuses to produce documents proving their right to work

Each case will be dependent upon the terms of the employment contract. You may wish to seek independent legal advice. You may also report the individual to us by either calling our Sponsorship and Employers' Helpline on 0300 123 4699 or by emailing us at: UKBApublicenquiries@ukba.gsi.gov.uk. You can also call Crime stoppers on 0800 555 111.

When an existing employee no longer has the right to work

If you have carried out repeat checks and found that your existing employee is no longer allowed to work in the UK or to carry out the work in question then you will no longer have an excuse against payment of a civil penalty. If you continue to employ a person who no longer has the right to work for you then you will be committing the criminal offence of knowingly employing an illegal worker.

If you are considering the potential dismissal of an employee, you may wish to seek independent legal advice. You may also report the individual to us by either calling our Sponsorship and Employers' Helpline on 0300 123 4699 or by sending us an email at: UKBApublicenquiries@ukba.gsi.gov.uk. You can also call Crime stoppers on 0800 555 111.

Verifying right to work in the UK

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 must keep copies of the documents relating to the check and the confirmation of right to work letter you receive from us to get and then keep an excuse for up to 12 months from the date of your confirmation letter.

We may require these documents for examination and they must be produced upon our request.

You must also carry out repeat confirmation checks using our checking service at least once every 12 months where the above circumstances continue to apply. You must receive positive confirmation of the person's continued right to work to keep your excuse. This will be for up to a further 12 months from the date of your confirmation letter. You are not required to use the Employer Checking Service if the worker's outstanding application has been concluded in the meantime and is subsequently in a position to present documents to you directly.

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

You are only required to use the Employer Checking Service in the three circumstances above and where someone starts working for you on or after 29 February 2008.

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 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. If you are not able to email us your form please call our Sponsorship and Employers' Helpline on 0300 123 4699 and they will advise you on what action to take.

Once our checking service has processed your request you will receive written notification of the outcome. You can expect a reply within 5 working days. 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. If you have questions relating to employment law, you may wish to seek independent legal advice.

Avoiding racial discrimination

The best way to make sure that you do not discriminate is to treat **all** job applicants in the **same way** at each stage of your recruitment process. You should ask all people you are looking to employ to present their documents **before** they start working for you. You should not make assumptions 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 on illegal working by carrying out document checks without discriminating against individuals. You can download the Code of Practice from our website at: www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/

If you breach this Code of Practice it may be used as evidence against you under equalities legislation before an employment tribunal. You will also place yourself at risk of payment of a civil penalty for employing an illegal worker, as your assumptions may have resulted in the employment of an illegal worker for whom you would not have a statutory excuse

If you need further advice on preventing discrimination in your recruitment checks, you should consult the Equality and Human Rights Commission (EHRC).

3: Acceptable documents for proving 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 document. It is crucial that you check that the stamp or endorsement 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 evidence of right to work.

List A: Documents which show an ongoing right to work

Any of the documents, or combination of documents, described in List A below show that the holder has an ongoing right to work in the UK. They will provide you with an excuse for the duration of that person's employment with you if you correctly follow the **3 step process** set out in the section on 'Right to work document checks'.

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 UK and Colonies having the right of abode in the UK.

A person with the right of abode in the UK has the right to live and work here without restriction. You should note that a passport describing the holder as a British Dependent Territories Citizen which states that the holder has a connection with Gibraltar is not acceptable as evidence of a person's right to work as they do not confirm that the holder is a British citizen. A passport stating that the holder is a 'citizen of the United Kingdom and Colonies' will only be acceptable if it includes the words: 'holder has the right of abode in the United Kingdom.'

Only the following passports are acceptable as proof of this:



7X 203433

**CERTIFICATE OF ENTITLEMENT
TO THE RIGHT OF ABODE**

Valid for presentation at a United
Kingdom port within the
validity of this passport

Signed _____

Date _____

SPECIMEN

[illegible]

SB-103

2

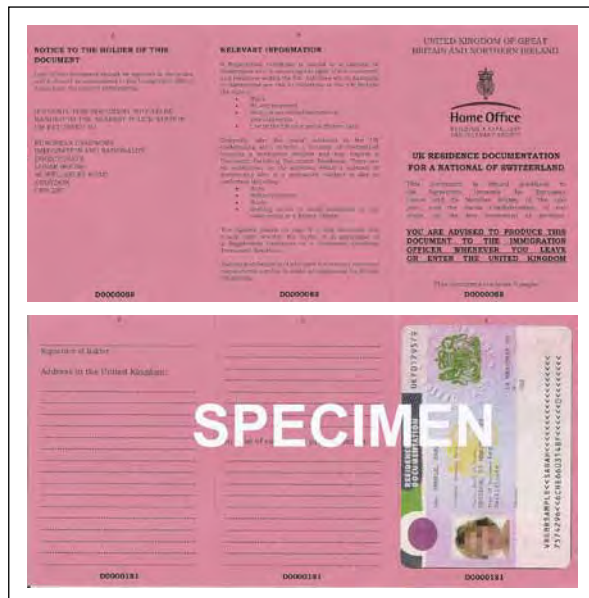
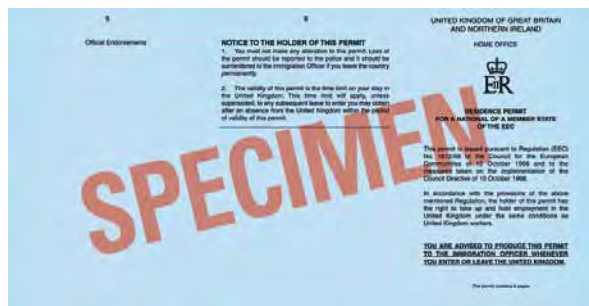
A passport or national identity card showing that the holder, or a person named in the passport as the child of the holder, is a national of an EEA country or Switzerland.

The majority of nationals from EEA countries and Switzerland are free to live and work in the UK. However, special controls on access to the UK labour market apply to those from Romania and Bulgaria (up until 31 December 2013) and Croatian nationals (from 1 July 2013). You can find more information in the section on 'Employing workers from the European Economic Area'.

3

A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office to a national of an EEA country or Switzerland.

For nationals from EEA countries, this document consists of a blue permit carrying a photograph and personal details of the holder. Nationals from EEA countries can obtain a residence permit from us. Swiss nationals receive a similar document in the form of a pink residence permit. Examples of these are shown below.



4 A permanent residence card or document issued by the Home Office to the family member of a national of an EEA country or Switzerland.

When nationals from EEA countries and Switzerland reside in the UK, their immediate family members from outside the EEA or Switzerland may gain the same rights to enter or remain, and work here freely. However, the EEA national in question must be lawfully residing in the UK for their family member to have and maintain these rights.

5 A Biometric Residence Permit issued by the Home Office 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.

You must not accept an expired Biometric Residence Permit as evidence of right to work. These documents have a maximum validity of 10 years for over 16 year olds, and 5 years for under 16's. You can find out more in the section 'UK immigration documents, stamps and endorsements.'

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.

You can find out more about the stamps and endorsements which show a person's immigration status in the section 'UK immigration documents, stamps and endorsements'.

Personal Details

Full Name
SURNAME, FORENAME(S)

Nationality
NATIONALITY

Date of Birth
DATE OF BIRTH

Place of Birth
PLACE OF BIRTH

Gender
MALE/FEMALE

Case ID
CID CASE ID

Refugee Status

The period for which leave to enter or remain in the United Kingdom has been granted is indicated in the endorsement.



IMMIGRATION STATUS DOCUMENT



Refugee Status

The person named on this document has been recognised by the Secretary of State as a refugee as defined by the 1951 Geneva Convention relating to the Status of Refugees and its Protocol.

The period for which leave to enter or remain in the United Kingdom has been granted is indicated in the endorsement.

While the period of leave indicated remains valid, the holder is able to work in the United Kingdom without any immigration restrictions limiting the type of work they can undertake.

The Immigration Status Document has been endorsed in favour of a valid national passport or travel document and entitles upon its presentation to enter or remain in the United Kingdom for the period indicated. It does not confer the possession of the personal particulars which are those supplied by the person who made the application. It entitles the holder to the Secretary of State's discretion and may be withdrawn at any time. It should not be interpreted as the passport of an individual person, nor does it confer any entitlement to be immediately reported to the nearest police station and to its immigration and Nationality Directorate or the address holder, any other individual person or a replacement be issued in such circumstances. The Immigration Status Document of a deceased person should be returned to the Immigration and Nationality Directorate for destruction.

For further advice on the purpose, use, or validity of this document, please write to the Immigration and Nationality Directorate at:
Letter Box, 80 Waverley Road, Croydon, CRY 2BT (telephone 0870 606 7744)

ACD 228

CERTIFIED COPY Transmit to the British and Irish Consulate		OF AN ENTRY Duties Registration Act 1983	
BIRTH		Entry No.	
Registration District		Administrative area	
Sex (initials)			
1. Name and place of birth	CHILD		
2. Service (if overseas)		3. Date	
4. Name (if married)	FATHER		
5. Name of father	4. Occupation		
6. Name (if married)	MOTHER		
7. Name of mother	8. Occupation		
9. Full Name of wife	10. Occupancy of marriage if different from public register		
11. Full Name of husband			
12. (For transmission to Office in a group of 1000 or more)			
13. Name and address of the person to whom to be sent	14. (If different)	15. (If different)	
16. Name of child	17. Name of child		
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200. Name of child	201. Name of child		
202. Name of child	203. Name of child		
204. Name of child	205. Name of child		
206. Name of child	207. Name of child		
208. Name of child	209. Name of child		
210. Name of child	211. Name of child		
212. Name of child	213. Name of child		
214. Name of child	215. Name of child		
216. Name of child	217. Name of child		

[illegible][illegible][illegible]

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.

Nationals from the Channel Islands, the Isle of Man and Ireland (also known as the Common Travel Area) have no immigration restrictions placed on the type of employment they can take in the UK.

EXTRACT FROM THE REGISTER OF BIRTHS
to the Parish of _____ in the Island of Jersey

ISLAND OF JERSEY
BIRTH CERTIFICATE (SHORTENED FORM)
Issued pursuant to Article 89(2) of the Marriage and Civil Status (Jersey) Law 2001.

CERTIFICATE OF BIRTH

Forenames and Surname: _____
Sex: _____
Date of Birth: _____

ISLAND OF JERSEY
BIRTH CERTIFICATE (SHORTENED FORM) (JERSEY) LAW, 1950
CERTIFICATE OF BIRTH

NAME AND SURNAME: _____
SEX: _____
DATE OF BIRTH: _____

ISLAND OF JERSEY
BIRTH CERTIFICATE (SHORTENED FORM) (JERSEY) LAW, 1950
CERTIFICATE OF BIRTH

NAME AND SURNAME: _____
SEX: _____
DATE OF BIRTH: _____

Island of Guernsey
CERTIFICATE OF BIRTH

No. 3697

Forename: Samuel
Child's Name: Adam
Sex: Male
Date of Birth: 10th July 1980
Place of Birth: Guernsey

I certify that the above particulars have been compiled from an entry in a Register in my custody. This 23rd day of October 2006

Officer, Deputy Registrar General

Island of Guernsey
Birth Certificate

No. 3697

Forename: Samuel
Child's Name: Adam
Sex: Male
Date of Birth: 10th July 1980
Place of Birth: Guernsey

I certify that the above particulars have been compiled from an entry in a Register in my custody. This 23rd day of October 2006

Officer, Deputy Registrar General

Island of Guernsey
Birth Certificate

No. 3697

Forename: Samuel
Child's Name: Adam
Sex: Male
Date of Birth: 10th July 1980
Place of Birth: Guernsey

I certify that the above particulars have been compiled from an entry in a Register in my custody. This 23rd day of October 2006

Officer, Deputy Registrar General

Island of Guernsey
Birth Certificate

No. 3697

Forename: Samuel
Child's Name: Adam
Sex: Male
Date of Birth: 10th July 1980
Place of Birth: Guernsey

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Officer, Deputy Registrar General

Island of Guernsey
Birth Certificate

No. 3697

Forename: Samuel
Child's Name: Adam
Sex: Male
Date of Birth: 10th July 1980
Place of Birth: Guernsey

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Birth Certificate

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Officer, Deputy Registrar General

Island of Guernsey
Birth Certificate

No. 3697

Forename: Samuel
Child's Name: Adam
Sex: Male
Date of Birth: 10th July 1980
Place of Birth: Guernsey

I certify that the above particulars have been compiled from an entry in a Register in my custody. This 23rd day of October 2006

Officer, Deputy Registrar General

A certificate of registration or naturalisation 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.

You should check that the A4 certificates describe the holder as a British citizen as indicated below.

HOME OFFICE
British Nationality Act 1981
Certificate of naturalisation
as a

The Secretary of State, in exercise of the powers conferred by the British Nationality Act 1981, hereby grants this certificate of naturalisation to the person named below, who shall be a

from the date of this certificate

Full name:

Name at birth if different:

Date of birth:

Place and country of birth:

Issued on the direction of the Secretary of State
HOME OFFICE LONDON

Certificate No. _____ Date _____
Reference No. _____ Section _____

This certificate does not certify the accuracy of the personal particulars, which are those supplied by the person who made the application.
Any unauthorised alteration may render this certificate invalid.

A 546646

HOME OFFICE
British Nationality Act 1981
Certificate of registration
as a

The Secretary of State, in exercise of the powers conferred by the British Nationality Act 1981, has registered the person named below as a

Full name:

Name at birth if different:

Date of birth:

Place and country of birth:

Issued on the direction of the Secretary of State
HOME OFFICE LONDON

Certificate No. _____ Date _____
Reference No. _____ Section _____

This certificate does not certify the accuracy of the personal particulars, which are those supplied by the person who made the application.
Any unauthorised alteration may render this certificate invalid.

B 161006

HOME OFFICE
British Nationality Act 1981
Certificate of naturalisation
as a

The Secretary of State, in exercise of the powers conferred by the British Nationality Act 1981, hereby grants this certificate of naturalisation to the person named below, who shall be a

from the date of this certificate

Full name:

Name at birth if different:

Date of birth:

Place and country of birth:

Issued on the direction of the Secretary of State
HOME OFFICE LONDON

Certificate No. _____ Date _____
Reference No. _____ Section _____

This certificate does not certify the accuracy of the personal particulars, which are those supplied by the person who made the application.
Any unauthorised alteration may render this certificate invalid.

C 009576

HOME OFFICE
British Nationality Act 1981
Certificate of registration
as a

The Secretary of State, in exercise of the powers conferred by the British Nationality Act 1981, has registered the person named below as a

Full name:

Name at birth if different:

Date of birth:

Place and country of birth:

Issued on the direction of the Secretary of State
HOME OFFICE LONDON


Certificate No. _____ Date _____
Reference No. _____ Section _____

This certificate does not certify the accuracy of the personal particulars, which are those supplied by the person who made the application.
Any unauthorised alteration may render this certificate invalid.

D 002667

A letter issued by the Home Office 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.

Until March 2004, individuals granted indefinite leave to enter or remain in the UK were usually issued with a Home Office status letter, as pictured below.


Home Office
Error! AutoText entry not defined.
Error! AutoText entry not defined.
Error! AutoText entry not defined.

Signature Error! AutoText entry not defined. For Error! AutoText entry not defined.

FORENAMES SURNAME Our Ref Our Ref
Date of Birth: DATE Your Ref Your Ref
Nationality: NATIONALITY Date Date
Dependants

Dear

GRANT OF ASYLUM

You have been recognised as a refugee as defined by the 1953 Geneva Convention relating to the Status of Refugees and its Protocol and have been granted asylum in accordance with the Immigration Rules. You have been granted indefinite leave to enter or remain in the United Kingdom and this means that you are free to stay in this country permanently.

ENTITLEMENTS

You are free to take a job and do not need the permission of any Government Department before doing so. You are free to use the National Health Service and the social services, and other services provided by local authorities as you need them.

POLICE REGISTRATION

You no longer need to report changes of address or other details to the police. Please find enclosed your police registration certificate endorsed to show that you no longer need to register.

TRAVEL ABROAD

You may travel out of the Common Travel Area any number of times during the validity of the leave you have been granted. The Common Travel Area comprises the United Kingdom, the Channel Islands, the Isle of Man and the Republic of Ireland. (In your return, you will be re-admitted to the United Kingdom without having to obtain fresh leave to enter or return.)

- you have been absent from the United Kingdom for a continuous period of more than two years, or
- you are working abroad as a different capacity from the one in which this leave has been granted.

1 of 2

BUILDING A SAFE, JUST AND TOLERANT SOCIETY


Home Office
Error! AutoText entry not defined.
Error! AutoText entry not defined.
Error! AutoText entry not defined.

Signature Error! AutoText entry not defined. For Error! AutoText entry not defined.

Address Our Ref Our Ref
Your Ref Your Ref
Date Date

Dear

I am writing to say that there are no longer any restrictions on the period for which you may remain in the United Kingdom.

You no longer need to report changes of address or other particulars to the police. Your police registration certificate, which is enclosed, has been changed to show this.

You can now remain indefinitely in the United Kingdom.

You do not need permission from a Government Department to take or change employment and you may engage in business or a profession as long as you comply with any general regulations for the business or professional activity.

If you are thinking of going to live or work in the Isle of Man or one of the Channel Islands, you should first consult the immigration authorities of the Island concerned.

If you leave the United Kingdom, you will normally be re-admitted for settlement as a returning resident provided that:

- you did not receive assistance from public funds towards the cost of leaving this country;
- you had indefinite leave to enter or remain here when you last left;
- you have not been away for longer than 2 years; and
- you are returning for the purpose of settlement.


In order to be considered as settled here you will have to be able to show that you are habitually and normally resident in this country, and that any absences have been of a temporary or occasional nature.

You will not be re-admitted as a returning resident if you are receiving income and only return here for short periods.

If your absence from the United Kingdom is for longer than 2 years but you can still demonstrate that you had indefinite leave to enter or remain here when you last left, and

1 of 2

BUILDING A SAFE, JUST AND TOLERANT SOCIETY


Home Office
Error! AutoText entry not defined.
Error! AutoText entry not defined.
Error! AutoText entry not defined.

Signature Error! AutoText entry not defined. For Error! AutoText entry not defined.

FORENAMES SURNAME Our Ref Our Ref
Date of Birth: DATE Your Ref Your Ref
Nationality: NATIONALITY Date Date
Dependants

Dear

You have been granted indefinite leave to enter/remain. This is exceptional leave, granted outside the Immigration Rules.

You no longer need to report changes of address or other particulars to the police. Your police registration certificate, which is enclosed, has been changed to show this.

You can now remain indefinitely in the United Kingdom.

You do not need permission from a Government Department to take or change employment and you may engage in business or a profession as long as you comply with any general regulations for the business or professional activity.

If you need financial help you can make a claim for social security benefits (including income-based Job Seeker's Allowance). However, as you have not been granted refugee status, you are not eligible for a back payment of social security benefits covering the period during which your claim for asylum was being considered.

If you are thinking of going to live or work in the Isle of Man or one of the Channel Islands, you should first consult the immigration authorities of the Island concerned.

If you leave the United Kingdom, you will normally be re-admitted for settlement as a returning resident provided that:

- you did not receive assistance from public funds towards the cost of leaving this country;
- you had indefinite leave to enter or remain here when you last left;
- you have not been away for longer than 2 years; and
- you are returning for the purpose of settlement.

1 of 2

BUILDING A SAFE, JUST AND TOLERANT SOCIETY

List B – Documents which show a right to work for up to 12 months

Any of the documents or combination of documents in List B below show that a person is allowed to work in the UK for a limited period of time. They will provide you with an excuse for up to 12 months from the date on which you carry out the checks, if you correctly follow the **3 step process** as set out in the section 'Right to work document checks'.

1

A passport or 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.

Nationals from outside the European Economic Area (the EEA) who are subject to immigration control and who have been given current leave to work here will be able to prove this by producing a UK Government stamp or endorsement in their national passport or travel document. When we grant a person limited leave to enter or remain we may place restrictions on the type of work a person can do here, and, or the hours they can work for, depending to their immigration status. You can find out more in the section on 'UK immigration documents, stamps and endorsements'.

2

A Biometric Residence Permit issued by the Home Office 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.

BRPs issued to those with Limited Leave to Remain clearly show whether there are any work conditions or restrictions. You can find out more in the section 'UK immigration documents, stamps and endorsements'.

3

A residence card or document issued by the Home Office to a family member of a national of a EEA country or Switzerland.

Example images are shown below.



A work permit or other approval to take employment issued by the Home Office together with either a passport or other 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 to the holder or to you confirming the same.

If you made an application for a work permit before your employee arrived in the UK, then the Home Office will have issued you directly with a work permit. If you made an application while your employee was in the UK, then the Home Office will have notified you with a letter of permission. If you are a licensed sponsor under our points based system (which we call PBS), you will have a record for the migrant worker on the sponsorship management system which shows the Certificate of Sponsorship number. Most work permit or PBS applicants will have been granted permission to remain in their passports stating that they are able to 'work as authorised by the Secretary of State'. A small number of work permit holders or PBS applicants may not have a national travel document and instead will be issued with an Immigration Status Document endorsed with a United Kingdom Residence Permit. Further details on documents, endorsements and ink stamps can be found in the section 'UK Government immigration documents, stamps and endorsements'.



Personal Details	
Full Name	SURNAME, FORENAME(S)
Nationality	NATIONALITY
Date of Birth	DATE OF BIRTH
Place of Birth	PLACE OF BIRTH
Gender	MALE/FEMALE
Case ID	CID CASE ID

<p>The period for which leave to enter or remain in the United Kingdom has been granted is indicated in the endorsement.</p>
<p>This Immigration Status Document has been endorsed in place of a valid national passport or travel document and confirms that the person named here is allowed to enter or remain in the United Kingdom for the period indicated.</p>
<p>ACD.21150</p>

A Certificate of Application which is less than 6 months old issued by the Home Office to or for a family member of a national of a EEA country or Switzerland stating that the holder is allowed to take employment together with a positive verification letter from the Home Office's Employer Checking Service.

Family members of nationals from EEA countries and Switzerland may apply for residence documents, such as a residence card, which show right to work in the UK. Under European law, many are also allowed to work whilst these applications are under consideration and before residence documents have been issued by us. We will provide such applicants with an initial letter of acknowledgment. A Certificate of Application will only give you an excuse if you carry out a check with our Employer Checking Service and receive positive confirmation of the person's right to work in response. Further information can be found in the section on 'Verifying right to work in the UK'. Example images are below.

**Home Office
UK Border Agency**

UK Border Agency
PO Box 2005
London
SE1 6YH
Tel: 020 3300 3300
Fax: 020 3300 3301
Email: ukborder@ukba.gov.uk
Web: www.ukba.homeoffice.gov.uk

Address: [Redacted]

Dear [Redacted]:

Re: [Redacted]

CERTIFICATE OF APPLICATION

(For family members of EEA nationals who are not themselves EEA nationals)

Thank you for submitting an application for a Residence Card or Permanent Residence Card. Until such time as your application has been decided by the UK Border Agency, your application will be treated for immigration purposes as a family member of a legally resident EEA national and, as such, you will be free to live and work in the United Kingdom.

We advise you not to make any new urgent travel plans until we have decided your application and returned your passport (or travel documents).

For up-to-date turnaround times on particular types of application please visit our website: www.ukba.homeoffice.gov.uk.

We would request that you do not telephone or make written enquiries about the progress of the application before you hear from us unless a passport or other document is needed urgently, as this diverts resources from making decisions.

Note for employers

Until 26 February 2008, this document may form part of a statutory defence against conviction under section 8 of the Immigration, Asylum and Nationality Act 2006 for employing an illegal migrant worker. This will only be acceptable when the document is presented in combination with the holder's appropriately documented permanent National Insurance Number, provided that both original documents are presented by the holder to the employer, and that the employer checks, copies, and retains the copy of the documents. To establish the statutory defence, the checks must be completed before employment begins.

From 29 February 2008 this document may form part of a statutory excuse against liability to pay a civil penalty under section 15 of the Immigration, Asylum and Nationality Act 2006 for employing an illegal migrant worker. This will only be acceptable if presented as evidence of an entitlement to work within six months of the date of the letter and if evidence is provided that you have verified the letter with the UK Border Agency - Employer Checking Service (details below). The original document must be presented by the holder. The employer must check, copy, and retain the copy of the document.

Employers and prospective employers should note that applications for a Residence Card or Permanent Residence Card should be resolved within six months from the date of application. Therefore, the UK

1 of 2

**Home Office
Border & Immigration Agency**

Employer Checking Service
PO Box 3458
Sheffield
S9 8WA
Telephone: 0845 010 6677

(Contact Name)
(Company Name)
(Street)
(Town)
(Postcode)

Date: (00 Month 0000)
Verification Reference Number: (000000)

SPECIMEN

Dear (Contact Name):

I am writing to advise you to your employer of a holder of a Certificate of Application of:

Name: [Redacted]
(Employer Name)

This individual has presented themselves as being able to work in the UK on the basis of a Certificate of Application that has been issued within the last six months.

I have checked our records and can confirm that this is the case.

Therefore I can confirm that this individual is currently entitled to work in the United Kingdom on the basis of an outstanding application for a residence card as the family member of a European national.

An updated Certificate of Application has been issued to the prospective employee applicant by separate post.

Retaining this letter in combination with a copy of the Certificate of Application will provide a statutory excuse against liability for payment of a civil penalty for employing an illegal migrant worker.

As the individual does not have an entitlement to remain indefinitely in the United Kingdom, to retain the statutory excuse you must repeat the appropriate document checks within twelve months of the date of the previous check.

The information provided in this letter is for your records only.

Yours sincerely,

(Advisor Name)
Employer Checking Service

An Application Registration Card (ARC) issued by the Home Office stating that the holder is 'Allowed to Work' or 'Employment Permitted' together with a positive verification letter from the Home Office's Employer Checking Service.

You should be aware that some asylum seekers or failed asylum seekers may have restrictions on the type of work they can carry out and, or the amount of hours they can work. If an asylum seeker gives you an ARC stating that work is restricted then you should make sure that you do not employ them in breach of these restrictions as you may be liable for a civil penalty. You can find out more in the section on 'Employing asylum seekers, refugees and those granted humanitarian protection'. An ARC will only give you an excuse if you carry out a check with our Employer Checking Service and receive positive confirmation of the person's right to work in response. Further information can be found in the section on 'Verifying right to work in the UK'. Example images are below.



An Immigration Status Document issued by the Home Office 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.

Personal Details

Full Name
SURNAME, FORENAME(S)

Nationality
NATIONALITY

Date of Birth
DATE OF BIRTH

Place of Birth
PLACE OF BIRTH

Gender
MALE/FEMALE

Case ID
CID CASE ID

Humanitarian Protection

While the period of leave indicated remains valid, the holder is able to work in the United Kingdom without any immigration restrictions limiting the type of work they can undertake.

Discretionary Leave

While the period of leave indicated remains valid, the holder is able to work in the United Kingdom without any immigration restrictions limiting the type of work they can undertake.

All of the letters pictured below indicate that an applicant has been granted a form of leave by us and that they have permission to stay in the UK for a limited period of time. Immigration restrictions may however have been placed on the type of work they can do here, which you should check carefully. If a person has restrictions then you should make sure that you do not employ them in breach of these restrictions as you may be liable for a civil penalty. You can find out more about the stamps and endorsements which show a person's immigration status in the section on 'UK immigration documents, stamps and endorsements'.

 Home Office <small>Home Office</small> <small>UK Border Force</small>	
<small>LEAF 1001, 1002, 1003, 1004, 1005, 1006, 1007, 1008, 1009, 1010, 1011, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1030, 1031, 1032, 1033, 1034, 1035, 1036, 1037, 1038, 1039, 1040, 1041, 1042, 1043, 1044, 1045, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1054, 1055, 1056, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1065, 1066, 1067, 1068, 1069, 1070, 1071, 1072, 1073, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1083, 1084, 1085, 1086, 1087, 1088, 1089, 1090, 1091, 1092, 1093, 1094, 1095, 1096, 1097, 1098, 1099, 1100, 1101, 1102, 1103, 1104, 1105, 1106, 1107, 1108, 1109, 1110, 1111, 1112, 1113, 1114, 1115, 1116, 1117, 1118, 1119, 1120, 1121, 1122, 1123, 1124, 1125, 1126, 1127, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1136, 1137, 1138, 1139, 1140, 1141, 1142, 1143, 1144, 1145, 1146, 1147, 1148, 1149, 1150, 1151, 1152, 1153, 1154, 1155, 1156, 1157, 1158, 1159, 1160, 1161, 1162, 1163, 1164, 1165, 1166, 1167, 1168, 1169, 1170, 1171, 1172, 1173, 1174, 1175, 1176, 1177, 1178, 1179, 1180, 1181, 1182, 1183, 1184, 1185, 1186, 1187, 1188, 1189, 1190, 1191, 1192, 1193, 1194, 1195, 1196, 1197, 1198, 1199, 1200, 1201, 1202, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, 1212, 1213, 1214, 1215, 1216, 1217, 1218, 1219, 1220, 1221, 1222, 1223, 1224, 1225, 1226, 1227, 1228, 1229, 1230, 1231, 1232, 1233, 1234, 1235, 1236, 1237, 1238, 1239, 1240, 1241, 1242, 1243, 1244, 1245, 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255, 1256, 1257, 1258, 1259, 1260, 1261, 1262, 1263, 1264, 1265, 1266, 1267, 1268, 1269, 1270, 1271, 1272, 1273, 1274, 1275, 1276, 1277, 1278, 1279, 1280, 1281, 1282, 1283, 1284, 1285, 1286, 1287, 1288, 1289, 1290, 1291, 1292, 1293, 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, 1307, 1308, 1309, 1310, 1311, 1312, 1313, 1314, 1315, 1316, 1317, 1318, 1319, 1320, 1321, 1322, 1323, 1324, 1325, 1326, 1327, 1328, 1329, 1330, 1331, 1332, 1333, 1334, 1335, 1336, 1337, 1338, 1339, 1340, 1341, 1342, 1343, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1353, 1354, 1355, 1356, 1357, 1358, 1359, 1360, 1361, 1362, 1363, 1364, 1365, 1366, 1367, 1368, 1369, 1370, 1371, 1372, 1373, 1374, 1375, 1376, 1377, 1378, 1379, 1380, 1381, 1382, 1383, 1384, 1385, 1386, 1387, 1388, 1389, 1390, 1391, 1392, 1393, 1394, 1395, 1396, 1397, 1398, 1399, 1400, 1401, 1402, 1403, 1404, 1405, 1406, 1407, 1408, 1409, 1410, 1411, 1412, 1413, 1414, 1415, 1416, 1417, 1418, 1419, 1420, 1421, 1422, 1423, 1424, 1425, 1426, 1427, 1428, 1429, 1430, 1431, 1432, 1433, 1434, 1435, 1436, 1437, 1438, 1439, 1440, 1441, 1442, 1443, 1444, 1445, 1446, 1447, 1448, 1449, 1450, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1458, 1459, 1460, 1461, 1462, 1463, 1464, 1465, 1466, 1467, 1468, 1469, 1470, 1471, 1472, 1473, 1474, 1475, 1476, 1477, 1478, 1479, 1480, 1481, 1482, 1483, 1484, 1485, 1486, 1487, 1488, 1489, 1490, 1491, 1492, 1493, 1494, 1495, 1496, 1497, 1498, 1499, 1500, 1501, 1502, 1503, 1504, 1505, 1506, 1507, 1508, 1509, 1510, 1511, 1512, 1513, 1514, 1515, 1516, 1517, 1518, 1519, 1520, 1521, 1522, 1523, 1524, 1525, 1526, 1527, 1528, 1529, 1530, 1531, 1532, 1533, 1534, 1535, 1536, 1537, 1538, 1539, 1540, 1541, 1542, 1543, 1544, 1545, 1546, 1547, 1548, 1549, 1550, 1551, 1552, 1553, 1554, 1555, 1556, 1557, 1558, 1559, 1560, 1561, 1562, 1563, 1564, 1565, 1566, 1567, 1568, 1569, 1570, 1571, 1572, 1573, 1574, 1575, 1576, 1577, 1578, 1579, 1580, 1581, 1582, 1583, 1584, 1585, 1586, 1587, 1588, 1589, 1590, 1591, 1592, 1593, 1594, 1595, 1596, 1597, 1598, 1599, 1600, 1601, 1602, 1603, 1604, 1605, 1606, 1607, 1608, 1609, 1610, 1611, 1612, 1613, 1614, 1615, 1616, 1617, 1618, 1619, 1620, 1621, 1622, 1623, 1624, 1625, 1626, 1627, 1628, 1629, 1630, 1631, 1632, 1633, 1634, 1635, 1636, 1637, 1638, 1639, 1640, 1641, 1642, 1643, 1644, 1645, 1646, 1647, 1648, 1649, 1650, 1651, 1652, 1653, 1654, 1655, 1656, 1657, 1658, 1659, 1660, 1661</small>	

Official documents issued by a previous employer or Government agency

A P45, P60, National Insurance number card, or a letter from a Government agency are acceptable to demonstrate a person's National Insurance number. A Government agency can include for example HM Revenue and Customs (formerly the Inland Revenue), the Department for Work and Pensions, Jobcentre Plus, the Training and Employment Agency (Northern Ireland) or the Northern Ireland Social Security Agency.

From July 2011 HM Revenue & Customs stopped issuing National Insurance number cards to adults (mainly foreign nationals), this has been replaced with a letter that will be issued by the Department for Work and Pensions. From October 2011 HM Revenue & Customs stopped issuing National Insurance number cards to Juveniles (young people) and now issue a letter. However, there will still be National Insurance cards in circulation for those individuals who received cards prior to July/October 2011.

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.

4: UK immigration documents, stamps and endorsements

This section explains and provides images of the immigration stamps and endorsements that we place in a person's passport or travel document when they are from outside the European Economic Area (EEA). We are taking steps to streamline documents by increasingly issuing Biometric Residence Permits to all non-EEA nationals in the UK for more than six months. Since the end of 2012 we have stopped issuing other formats of document to people granted more than six months leave in the UK. However, as there will continue to be older formats of documents issued prior to this in circulation, the information in this section will help you to understand what you need to check to ensure that the person in question is allowed to do the type of work you are offering.

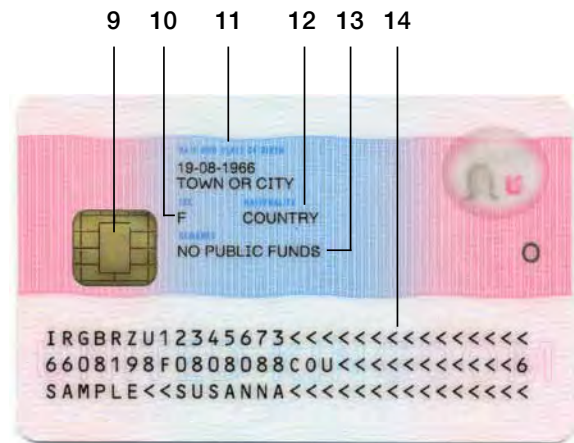
If you need further help when given any of the immigration stamps or endorsements, then you should call our Sponsorship and Employers' Helpline for further advice on **0300 123 4699**. An operator will provide you with advice about whether a stamp or endorsement allows the holder to take the employment you are offering. You should also regularly check our website for further updates: www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/

Our immigration officers working at ports of entry continue to use a variety of wet ink endorsements, examples of which are provided in this section.

Biometric Residence Permit

The Biometric Residence Permit (BRP) holds a migrant's biographic details (name, date and place of birth) and biometric information (facial image and fingerprints), and shows their immigration status, the date of expiry of leave and entitlements and restrictions while they remain in the UK.

The card's design is set by European Union (EU) regulation. It is a standard credit card size (86mm x 54mm) and will look similar to identity cards issued by other EU countries. The card is made from polycarbonate plastic and contains a chip to make it more secure against forgery and abuse.



1. Holder's digital image
2. Holder's name
3. Valid until – the date the card expires. This date is at the end of the time the holder is allowed to stay; or five or 10 years if the holder has been given permission to settle in the United Kingdom (known as indefinite leave to remain)
4. Place and date of issue – this is the UK followed by the date the card was issued
5. Type of permit – this is the immigration category the holder is in (for example, STUDENT)
6. Remarks – these are the immigration entitlements for the length of the holder's stay, and may continue on the back of the card
7. ZU1234567 – unique card number
8. Holder's signature
9. Biometric chip
10. Holder's gender
11. Holder's date and place of birth
12. Holder's nationality
13. Remarks – this is a continuation of immigration entitlements for the length of time of the holder's stay (see 6 above)
14. Machine readable zone (MRZ) – this area allows information printed on the card to be read quickly by machine

You can find out more about Biometric Residence Permits on our website at:

www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/checking-brp/

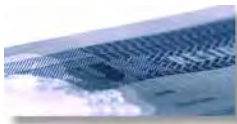
UK Residence Permit

The UK Residence Permit (which we call UKRP) is a form of endorsement which was introduced in 2003. It is used to endorse passports and other travel documents belonging to nationals from outside the EEA, and is also placed on Home Office Immigration Status Documents to show that a person has been granted leave to enter or remain in the UK. The UKRP has now replaced most of our ink stamps which are shown later in this section and which state 'Leave to Remain', but you may still be given older documents with valid ink stamps.

The UKRP is issued to those nationals who intend to stay here for longer than six months (and is in turn being replaced by BRPs). It is not issued to any non EEA nationals who are required to obtain a visa or entry clearance to enter the UK before they travel here.

The UKRP contains a number of security features which are highlighted below to help you recognise and identify what they look like.

United Kingdom Residence Permit – Security Features



INTAGLIO PRINT and LATENT IMAGE All of the overprint uses a raised process known as intaglio. This gives a characteristic rough texture. The letters "UK" appear when viewed at an oblique angle.



OPTICALLY VARIABLE INK This area exhibits a colour change when depending on the angle of viewing. The colour shift is from pink to gold. Both colours should be seen.



LETTERPRESS SERIAL NUMBER A unique process is used to print the serial number. Note the hard outline of the characters caused by the pressure of the printing.



KINEGRAM This is an intricate laser produced foil feature. A high degree of detail and vibrancy should be seen as the angle of viewing changes.



INTAGLIO PRINT The overprint including the extra small "EU" lettering is produced using intaglio. Note the high degree of detail within the crest design.



SECURE PAPER and BACKGROUND PRINT The paper used contains blue and red visible fibres. The background print contains high detail and uses subtly merging colours (rainbow print).

There are a number of security features which identify a genuine vignette. Extensive use of intaglio print for all of the overprinted areas including a latent image, extra small print and optically variable inks. The presence of a kinegram makes the vignette difficult to scan and the use of secure paperstock containing random fibres (two colour visible – red and blue) further add to the anti-counterfeiting measures. The background print is intricate in design and is printed using rainbow print techniques.

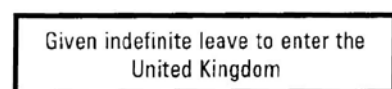
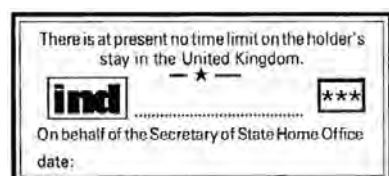
Indefinite leave to enter or remain, or no time limit on a person's stay in the UK

Any individual who is granted indefinite leave to enter or remain in the UK, or who has no time limit on their stay here, may stay and work in the UK as long as they like. There are no immigration restrictions placed on the type of work they can do.

We began endorsing passports, or Immigration Status Documents with the UKRP from December 2003 to show that the holder has indefinite leave to enter or remain here (see below).



You may also see the following endorsements which show that a person has this status. These endorsements are being phased out, but when checked will still give you an excuse if they are given to you in a passport by the holder.



The holders of travel documents who have been granted indefinite leave to enter or remain here may have a printed endorsement in their travel document stating: 'There is no time limit on the holder's stay in the United Kingdom.'

Asylum seekers who have been awarded refugee status or leave to stay here under a form of temporary protection will not usually possess a national passport endorsed with leave to enter or remain in the UK.

In certain circumstances, they are able to apply to us for a travel document. Examples of the six travel documents that are currently in circulation are pictured below.



Exceptional leave to enter or remain discretionary leave or humanitarian protection

A person who has been granted exceptional leave, discretionary leave or humanitarian protection may have limited leave to enter or remain here. You will be able to employ a person with limited leave if the date shown on their endorsement or stamp has not expired. You should still carry out the appropriate document checks to have the excuse.

There are no restrictions placed on the type of work they can do.



Leave to remain in the United Kingdom is hereby given		
Until.....		
.....		
on behalf of the Secretary of State Home Office		
Date		

Leave to enter the United Kingdom
is hereby given for/until

Limited leave to remain granted with no restrictions on employment

Certain qualified people and their dependants who meet the requirements of the UK's immigration rules are granted leave to enter or remain here for a limited period of time without being subject to work conditions.

You will be able to employ anyone with this status if the date shown on their passport endorsement or stamp has not expired. There are no immigration restrictions placed on the type of work they can do. You should still carry out the appropriate document checks to have the excuse.



Leave to enter for/until	

No recourse to public funds	

Leave to remain in the United Kingdom, on condition that the holder maintains and accommodates himself and any dependants without recourse to public funds is hereby given	
until	
.....	
on behalf of the Secretary of State Home Office	
Date	

Leave granted to work permit holders and students

If a person has been granted leave to enter or remain here as either a student (or Tier 4 migrant), as a work permit holder (or Tier 2 migrant), then you can employ them if the date shown on their passport stamp, endorsement or BRP has not expired. They are only allowed to carry out certain types of work and, or for a limited number of hours under the Immigration Rules. You should note that you may be required to pay a civil penalty, or you may commit the criminal offence of knowingly employing an illegal migrant worker, if they work for you in breach of their conditions. You should still carry out the appropriate document checks to have the excuse.



Leave to remain in the United Kingdom, on condition that the holder maintains and accommodates himself and any dependants without recourse to public funds is hereby given	
until.....	
The holder is not to engage in employment paid or unpaid other than with.....	
and is not to engage in any business or profession without the consent of the Secretary of State for the Home Department	
.....	
on behalf of the Secretary of State Home Office	

Leave to enter for/until

No recourse to public funds
Work (and any changes) must be authorised

Limited leave granted with specific types of employment

You can employ people in these categories only:

- If a person is here with restrictions on their stay, then the stamp or endorsement in their passport, or their BRP will state the specific work the holder is limited to taking while in the UK.

FAMILY, GIVEN

Date: **19 AUG / AOUT 08**

Liverpool,

Issued On: **21 JAN / JAN 04**

Duration:

Limited Leave to Remain

Remarks:

Limited leave to remain in the UK.

No recourse to public funds M

Employment & working holidays WYE

Changes must be authorized by
The Secretary of State.

SPECIMEN

VRGBRFAMILY<<GIVEN<<<<<<<<<<<<<<<
 <<<<<<<<DZWE7404113M0808192<<<<<<<4

<p>Leave to remain in the United Kingdom, on condition that the holder maintains and accommodates himself and any dependants without recourse to public funds is hereby given</p> <p>until</p> <p>.....</p> <p>on behalf of the Secretary of State Home Office</p> <p>Date</p>	

Leave to enter for/until

.....

to work as/with

.....

Changes must be authorised
No recourse to public funds

Change of conditions

You may also be presented with the following ink stamp, which was formerly used by our immigration officers to transfer a person's conditions from an old passport into a new passport.

	Code
The holder has leave to enter/remain that was granted on	
by and expires on	

If someone presents this ink stamp to you in their passport, you should require them to produce their previous passport containing their previous leave so you can be sure that they are allowed to take the employment you are offering. You may be required to pay a civil penalty or commit the criminal offence of knowingly employing an illegal migrant worker if they work for you in breach of their conditions. You should still carry out the appropriate document checks to have the excuse.

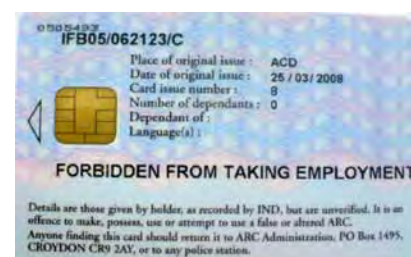
Visas and entry clearance certificates

Nationals from certain countries are required to obtain a visa or entry clearance certificate from UK embassies before they travel to the UK. A list of the countries can be found on the UK Visas website at: www.ukvisas.gov.uk



Any non EEA national who has the following endorsements in their passport is **not allowed to work in the UK**. You may be required to pay a civil penalty and may commit the criminal offence of knowingly employing an illegal worker under section 21 of the 2006 Act if you employ a person on the basis of **any** of the pictured stamps in their passports.

Leave to enter for/until
.....
No work or recourse to public funds



5: Sponsoring workers from outside the European Economic Area

If you want to employ workers from outside the European Economic Area (EEA) you must be their **sponsor** during their stay in the UK. Before you can sponsor a migrant, you must obtain a sponsor licence.

Sponsorship is a flexible system that adapts to the changing economic circumstances of the UK. If you are looking to sponsor non-EEA workers, you are required to take responsibility for them and ensure that they have the intention and ability to meet the conditions of their visa. As a sponsor you will have a number of reporting duties; you must tell us if a sponsored worker fails to turn up for their first day of work. You are also expected to report if the person's employment is ended early, for example if they resign or are dismissed.

We have a regional network of compliance officers who are responsible for ensuring that you comply with your sponsor duties and who may conduct visits at any time. Our officers are also able to advise you on all aspects of sponsorship. Failure to comply with your sponsor duties may lead to action being taken against you which could result in the revocation of your sponsor licence.

We have several routes (known as tiers) under which a person can apply to work in the UK and we award points to ensure that only those with the attributes required by the UK are able to come here. You can find out more about how you can sponsor workers on our website:

www.ukba.homeoffice.gov.uk/business-sponsors/points/

Impact of a civil penalty when applying for a sponsor licence

If you are considering applying for a licence to sponsor workers you should be aware of the following:

We may refuse your application if you or a relevant person (any owner, director, authorising officer, key contact, level 1 user, or anyone involved in your day-to-day running of the business) have, within the previous 12 months, been issued with a civil penalty for employing one or more illegal workers and liability still stands once your objection and appeal rights have been exhausted.

If the fine for at least one of those workers was set at the maximum amount of £10,000, or if the fine was for a repeat breach and set below the maximum amount we will refuse your application if:

- you paid the fine within the given time limit and applied within six months of the date the fine became payable; or
- you paid the fine after the given time limit and applied within 12 months of the date the fine became payable.

If the fine was for a first breach and set below the maximum amount, we will refuse your application if you paid the fine after the given time limit and applied within six months of the date the fine became payable.

We will refuse your application if you, or a relevant person, have not paid an outstanding illegal working civil penalty issued since the start of the regime in February 2008 where liability still stands once your objection and appeal rights have been exhausted.

Impact of a civil penalty on a licensed sponsor

If you are a licensed sponsor of workers you should be aware of the following:

We will revoke your licence immediately if:

- You or a relevant person (any owner, director, authorising officer, key contact, level 1 user, or anyone involved in your day-to-day running of the business) are issued with a civil penalty for employing one or more illegal workers, and the fine for at least one of those workers stands at the maximum £10,000 once your objection and appeal rights have been exhausted.
- You or a relevant person are issued with a civil penalty as above for a first breach, where the fine is below the maximum amount, and you have failed to pay the fine in full or set up a payment instalment plan with us by the 29th day following notification of liability after an initial, objection or appeal determination.
- You, or a relevant person, are issued with a civil penalty for a repeat breach within the period that your sponsor licence is valid and you are still liable once your objection and appeal rights have been exhausted.
- You or a relevant person goes on to breach the conditions of your civil penalty payment instalment plan.

You can find out more about sponsoring workers on our website:

www.ukba.homeoffice.gov.uk/business-sponsors/points/

6: Employing asylum seekers, refugees and those granted humanitarian protection

There is a difference between the right to work in the UK of asylum seekers, and those who have been granted refugee status or humanitarian protection.

Asylum seekers

Asylum seekers are those who have made an application for international protection on the basis that it would be contrary to our obligations under the Refugee Convention or the European Convention of Human Rights (ECHR) to remove them from the UK.

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.

They must apply to the Home Office for permission to work unless they already have the right to work from any previous leave to remain in the UK that they had before claiming asylum. If this is the case it will be clearly shown in their passport or valid Biometric Residence Permit.

If an asylum seeker is allowed to work they will hold a Home Office issued Application Registration Card (ARC) 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

You should note that checking and taking copies of an ARC stating that work is allowed will only give you an excuse if you have received positive confirmation of the person's right to work from our Employer Checking Service. You can find out more information about this in the section on 'Verifying right to work in the UK'.

Any permission to work will come to an end:

- for asylum seekers: once the asylum application has been finally determined (that is, once appeal rights are exhausted),
- for failed asylum seekers: once a negative decision has been taken on a further submission or, in the event that appeal rights are granted, those appeals are exhausted.

If you are given an ARC which states:

- Employment Prohibited
- Forbidden From Taking Employment

on either side, as shown in the section on 'UK immigration documents, stamps and endorsements', then you may be required to pay a civil penalty, or you may commit the criminal

offence of knowingly employing an illegal migrant worker, unless the person can otherwise show that they are allowed to work in the UK.

You should not accept a Standard Acknowledgement Letter (SAL) or Immigration Service Letter (IS96W) as evidence that an asylum seeker is allowed to work. If an asylum seeker presents these documents to you, you should refer them to us on 0151 213 2174 for further advice on how they can obtain an ARC.

Restrictions on asylum seekers working

Some asylum seekers have restrictions on the kind of work they can do. If an asylum seeker gives you an ARC stating that work is restricted then you should make sure that you do not employ them in breach of these restrictions as you may be liable for a civil penalty.

Since 9 September 2010 asylum seekers who have not received an initial decision on their claim within 12 months, and failed asylum seekers who have made further submissions on asylum grounds, but have not received a decision after 12 months, can apply for the right to work. They will not be allowed to work if the delay was their fault.

These rules apply to:

- all applications for right to work by failed asylum seekers that remained outstanding as at 9 September 2010; and
- all applications for right to work made by asylum seekers or failed asylum seekers on or after 9 September 2010.

These rules do not apply to applications for right to work made by asylum seekers before 9 September 2010 that have not been decided as at 9 September 2010. These rules limit the types of jobs that those asylum seekers and failed asylum seekers who are allowed to work can do. They are only allowed to do jobs included on the list of shortage occupations published by us, and in effect at the time the job offer is accepted.

You can view our shortage occupation list as a pdf on our website:

www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2011/november/18-short-occup

These individuals do not have to meet the other tests of the points based system and you do not need to be a sponsor to employ an asylum seeker or failed asylum seeker who is allowed to work.

Our Employer Checking Service confirms whether an asylum seeker or failed asylum seeker has the right to work and is allowed to do the job you are offering. The individual themselves will be aware of any restrictions they may be subject to when applying for employment.

Those granted permission to work before 9 September 2010 and those who were already allowed to work at the point at which they claimed asylum will not be restricted to jobs on our shortage occupation list. Our Employer Checking Service will confirm the type of permission the individual has.

Refugee status and humanitarian protection

An asylum seeker whose claim is successful is granted refugee status. Refugees are foreign nationals or stateless people who we have allowed to remain in the UK because they have demonstrated a well founded fear of persecution for one of the reasons listed in the 1951 Geneva Convention.

Humanitarian protection may be granted to those who do not qualify for protection under the 1951 Geneva Convention if there is a real risk that if they were removed to their country of origin they would face serious harm.

Refugees and those with humanitarian protection have no restrictions on the type of work they can do, as long as they continue to hold this qualifying status.

These individuals do not have to meet the tests of the points based system, and you do not need to be a sponsor under this scheme to employ someone of one of these statuses.

We are committed to the integration of refugees and those with humanitarian protection.

Settlement within the UK

Since August 2005 we have given people granted refugee status or humanitarian protection, five years limited leave to enter or remain in the UK. After those five years they can apply to us if they wish to extend their leave, and they may be granted indefinite leave to remain here, which is also known as settlement.

They can apply to us for settlement a month before their five years limited leave expires. It is the individual's responsibility to ensure that their application reaches us before their leave expires (which is before the expiry date indicated on their status document). To apply for settlement, the person should submit a 'SET (Protection Route)' application form, which can be found on our website: www.ukba.homeoffice.gov.uk/settlement/applicationtypes/completing_set_protection_route/

If a person applies to us for settlement, they will surrender their original status document, although they are encouraged to keep a photocopy of the original. We will provide them with an acknowledgement letter to confirm receipt of their application.

As the individual will no longer have their original status document available for you to check their right to work, you are required to get positive confirmation of their right to work from us using our Employer Checking Service. A positive confirmation of the person's right to work is required to get a statutory excuse against payment of a civil penalty. You can find out more about this in the section on 'Verifying right to work in the UK.' Further assistance for applicants is available from our Croydon Contact Centre on 0870 606 7766.

Volunteering

Volunteering may be undertaken by asylum seekers, as long as they are carrying out the work on behalf of a registered charity, voluntary organisation or body that raises funds for either, or public sector organisation.

However, we do not support volunteering activities by anyone whose asylum application has been refused and their appeal rights exhausted. As they no longer have a basis to remain in the UK they should leave voluntarily.

More information on our policy on asylum seekers volunteering and undertaking voluntary work can be found in the 'Asylum Permission to Work Policy Instruction' on our website: www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/asylumpolicyinstructions/

7: Employing workers from the European Economic Area

Nationals from the European Economic Area (EEA) countries and Switzerland are referred to in this guide as EEA nationals. They can enter the UK without any restrictions. You should not, however, employ an individual purely on the basis that they claim to be an EEA national. You should also be aware that not all EEA nationals can work in the UK without 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. Some EEA nationals may also have been issued with a registration certificate. This is a document issued by us to confirm that they are living here lawfully, either by exercising their Treaty rights or residing as the family member of another EEA national who is exercising Treaty rights. An EEA national can exercise a Treaty right as a worker, jobseeker, self-employed person, self-sufficient person, or as a student.

Some EEA nationals may also be able to produce a document certifying that they have a right of permanent residence in the UK. All of these documents are included in **List A** and will provide you with an excuse if checked and copied **before** the person starts working for you.

EEA nationals who can work without restriction

- | | | |
|------------------|-----------------|---------------|
| • Austria | • Greece | • Malta |
| • Belgium | • Hungary | • Netherlands |
| • Cyprus | • Iceland | • Norway |
| • Czech Republic | • Ireland | • Poland |
| • Denmark | • Italy | • Portugal |
| • Estonia | • Latvia | • Slovakia |
| • Finland | • Liechtenstein | • Slovenia |
| • France | • Lithuania | • Spain |
| • Germany | • Luxembourg | • Sweden |

Nationals from these EEA countries can enter and work freely in the UK without restriction. Whilst they are residing lawfully, their immediate family members (whether or not they are EEA nationals) are also able to live and work freely in the UK. However, you should still check their documents to prove this right to work. Since 1 June 2002, nationals from Switzerland and their family members have also had the same free movement and employment rights as EEA nationals.

Bulgarian and Romanian nationals

Bulgaria and Romania joined the European Union on 1 January 2007. Bulgarian and Romanian workers are free to come to the UK but unless exempt, they are 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.

The restrictions on Bulgarian and Romanian workers end on 31 December 2013, so for workers employed on or after 1 January 2014 these restrictions will not apply.

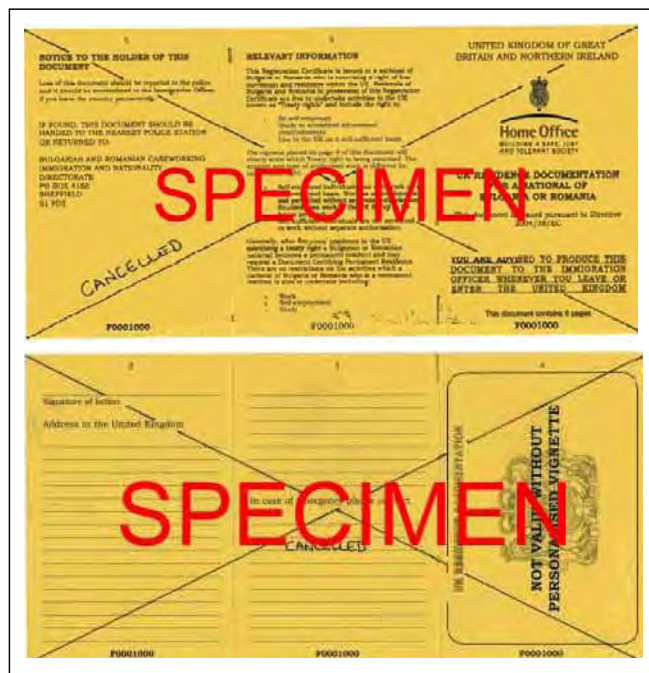
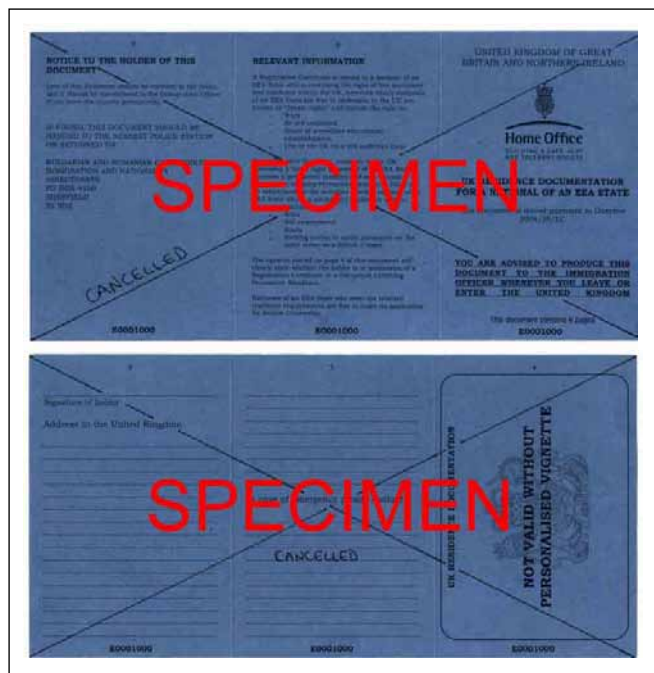
This authorisation will normally take the form of an Accession Worker Card. An Accession Worker Card will specify the employer and the occupation or category of employment for which it is issued. The card will not be issued for a specified period of time but will no longer be valid if the employment for which it has been issued ends. Workers who are still subject to worker authorisation will need to apply for a new Accession Worker Card if they change employment. Those on the Seasonal Agricultural Workers Scheme (SAWS) will be issued with a SAWS card.



Those who claim to be exempt on the basis of being highly skilled must have a 'blue' registration certificate confirming that they have unrestricted access to the UK labour market before they can start work. Bulgarian and Romanian students who wish to work, and who are not otherwise exempt, must have a 'yellow' registration certificate confirming that they are exercising a Treaty right as a student and have limited access to the UK labour market. The registration certificate will specify the restrictions. You must not offer employment to the holder of this document if it would mean breaching these restrictions.

www.ukba.homeoffice.gov.uk/workingintheuk/eea/bulgariaromania/liveworkuk/

49 Full guide for employers on preventing illegal working in the UK



If you employ a non-exempt Bulgarian or Romanian worker without authorisation you may be liable to prosecution under the Accession (Immigration and Worker Authorisation) Regulations 2006.

Croatian nationals

Since 1 July 2013, as European Economic Area (EEA) nationals, Croatians have been able to move and reside freely in any European Union (EU) Member State. However, the UK has applied transitional restrictions on their access to the labour market under the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013. Under these Regulations, a Croatian national who wishes to work in the UK and who is subject to the worker authorisation requirement will need to obtain an accession worker authorisation document (permission to work) before starting any employment.

This means that since 1 July 2013 a Croatian national can only work in the UK if they hold a valid accession worker authorisation document or if they are exempt from work authorisation. Under the 2013 Regulations you have a duty to carry out document checks to confirm if a Croatian national is either exempt from work authorisation or holds a valid worker authorisation document for the work in question. You should check, validate and keep dated copies of original acceptable documents before they start working for you.

If you do not carry out these checks you may be required to pay a fine, known as a civil penalty, under regulation 11(2) of the 2013 Accession Regulations, if you employ a Croatian national illegally.

You can find out more information on your duty under the Accession of Croatia Regulations 2013 in our employer guidance and code of practice booklets on our website: www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/

8: Employing students

Students from outside the European Economic Area (EEA) are allowed to take limited employment in the UK, providing their conditions of entry to the UK allow this. 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.

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

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.

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

Work restrictions

You can employ students granted leave under the Immigration Rules in place prior to the introduction of Tier 4 of the points based system, which came into force on the 31 March 2009:

- **for up to 20 hours per week only** during term time; or
- full time only outside of their term time i.e. during vacations and following completion of their course; **and**
- they must still have valid leave.

You can employ students granted leave under the Immigration Rules in force from 31 March 2009 under Tier 4 of the points based system, as follows:

- If the student applied for permission to come or stay in the UK before 4 July 2011 and they are studying:
 - a foundation degree course or degree level courses at QCF or NQF level 6 (and equivalents) or above, they can work 20 hours a week during term time and full time during vacations;
 - below QCF or NQF level 6 (and equivalents), (except students on foundation degree courses), they can work 10 hours a week during term time and full time during vacations.
- If the student applied for permission to come or stay in the UK after 4 July 2011 they can work 20 hours a week during term time and full-time during vacations and following completion of their course if:
 - they are studying at degree level (QCF or NQF level 6 (and equivalents)) or above and with a recognised body or a body that receives public funding as a higher education institution; or
 - they are on a short-term study-abroad programme in the UK whilst enrolled with an overseas higher education institution.

- If the student applied for permission to come or stay in the UK after 4 July 2011 they can work 10 hours a week during term time and full-time during vacations and following completion of their course if:
 - they are studying at below degree level (QCF or NQF level 6 (and equivalents)) and with a recognised body or a body that receives public funding as a higher education institution; or
 - they are studying at a minimum QCF or NQF level 3 (and equivalents) with a publicly funded further education college and where the publicly funded further education college is a highly trusted sponsor. If the publicly funded further education college is not a highly trusted sponsor the minimum level the student can study at is QCF or NQF level 4.

You cannot employ a student if they do not fit into any of the above categories.

A student from outside of the EEA **must not**:

- engage in business; **or**
- engage in self employment; **or**
- provide services as a professional sports person or entertainer; **or**
- pursue a career by filling a permanent full time vacancy.

Where a student applies for an extension to their stay from within the UK **before** their existing permission to stay has expired, but their permission runs out before a decision has been made on their application, then you can continue to employ them, subject to the above conditions, while they are awaiting a decision.

You can find more information on the right to work in the UK of students from out the EEA, including information on work placements/sandwich courses on our website:

- the rules for students who applied for leave before 31 March 2009 can be found at:
www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter3/section3/section3.pdf?view=Binary
- the rules for students who have applied to study in the UK under the points based system on or after 31 March 2009 can be found at:
www.ukba.homeoffice.gov.uk/visas-immigration/studying/adult-students/conditions/

9: Employing members of the armed forces

Armed Forces personnel may currently apply for settlement where they have:

- completed 4 years continuous service in HM Armed Forces;
- have been discharged from their duties; and
- meet all the other statutory requirements of the relevant Immigration Rules.

While they may apply for settlement up to 10 weeks prior to their discharge, settlement cannot be granted until they have officially completed service in HM Armed Forces. This is because while they remain in HM Forces they are exempt from Immigration control under section 8(4)(a) of the Immigration Act 1971 and so can not technically be granted settlement under that Act.

Settlement within the UK

Where a member of the Armed Forces applies for settlement before their discharge, they will receive an Indicative Letter from us outlining that a decision to grant them settlement in principle has been made based on the information currently held.

You should be aware that this Indicative Letter does not give the holder permission to work. Instead it demonstrates that the individual named is complying with our rules and should not be excluded from consideration for future employment on the grounds of their immigration status. We cannot guarantee that settlement will ultimately be granted but the grant of settlement is highly likely barring any late change in the circumstances of the applicant. You can be confident that in the vast majority of cases this will then enable early confirmation and commencement of employment once the applicant has been discharged from HM Forces.

If you are given an Indicative Letter we recommend that you delay the actual employment until acceptable documents showing right to work have been provided.

Indicative letter to send to applicant whose application has been considered and where an *in principle* decision has been made to grant settlement, subject to any other factors coming to light. This letter is not to be used where, on the evidence available, there is reason to believe that a grant of settlement is unlikely to be appropriate.

To whom it may concern

Name: XXXXX XXXXX
DOB: dd/mm/yy
Nationality: **Nationality**
Service no: **No.**
Unit: **Unit Name**
Address: **Full Address**

This letter confirms that the above named is currently serving with [insert Unit Name] and has applied for indefinite leave to remain in the UK in anticipation of [his/her] discharge from HM armed forces on [date of discharge].

As a serving member of HM armed forces (HMAF), [insert name] is exempt from immigration control under section 8(4)(a) of the Immigration Act 1971. As a matter of law it is not possible to grant a person indefinite leave to remain in the UK whilst they are exempt from immigration control under Section 8(4)(a) of the Immigration Act 1971. Therefore, settlement can not be granted until the exemption from immigration control has ceased following [insert name]'s discharge from HMAF.

Despite this limitation, [insert name]'s application for indefinite leave to remain was submitted on [add in date] and has been provisionally considered and assessed by UK Border Agency on the information provided. This includes UKBA having conducted relevant checks as required by law and policy. I can therefore confirm that it is UK Border Agency's intention to grant [insert name] indefinite leave to remain on [insert date of discharge] or as soon as possible thereafter bar any unanticipated intervening factors.

Whilst not providing a guarantee, this letter therefore serves to indicate that settlement is likely to be granted and that relevant arrangements for his employment, access to housing, healthcare and benefits may therefore be pursued on the reasonable expectation that settlement will be granted.

Specific Information for Employers

This letter does not confer permission to work but it should demonstrate that the individual named is complying with UK Border Agency and should not be excluded from consideration for future employment on the grounds of [his/her] immigration status. Employers must ensure, however, that no employment should commence until [insert name] has demonstrated [he/she] has been granted permission to work in the UK by providing the relevant documentation. Employers may seek further advice by contacting the UK Border Agency's Employer's Helpline on 0300 123 4699 (UK Number).

10: Civil penalty process

Our system of civil penalties is designed to encourage you to comply with your duty to prevent illegal working without us unfairly criminalising you if you have not acted with due care and diligence in operating your recruitment and employment practices.

Liability for a civil penalty

If you are found to have employed an illegal worker you may be served with a **Notice of Potential Liability** for a civil penalty. The decision on whether a penalty is appropriate and, if so, how much it will be, will not be made immediately. The details of your case will be passed to our Civil Penalty Compliance Team for consideration of liability and, where liability is found, consideration of a number of factors to decide the penalty amount. The team will then notify you of any action to be taken against you.

If the team decides that there is no action to be taken, you will be sent written notification of this decision. Your case will then be closed. However, if it is decided that you are liable for a penalty, you will be advised of this by the service of a **Notice of Liability** for a civil penalty which will be your first formal notification that a penalty has been imposed on you.

This notice will state:

- a. why you are liable;
- b. the amount payable;
- c. when it must be paid by;
- d. how the penalty must be paid;
- e. how you may object to or appeal against the penalty; and
- f. how the penalty may be enforced.

Fast payment option

We have a Fast Payment Option which gives you the opportunity to pay a 20% lower amount for your civil penalty as long as the qualifying criteria are met and payment is made in full and received by us within 21 days of the given date on your penalty notice.

The option will only be available if:

- you have not been previously served with a penalty or warning letter within the last three years; and
- you have co-operated with Home Office officials when carrying out their checks into your compliance with your employer illegal working duties; and
- you were found liable for employing no more than two illegal workers.

You should note that when we refer to previous penalties this means those issued in respect of both Croatian nationals under the 2013 Accession Regulations and non-EEA nationals under the 2006 Act. When we refer to warning letters this means those issued in respect of the employment of illegal migrant workers.

If you object to the penalty, you will lose this option unless the penalty is then reduced at the objection stage.

Information sharing

When the Home Office issues a civil penalty, information may be shared with other government departments such as HM Revenue and Customs and the Department for Work and Pensions. Employers who are also themselves subject to immigration control should be aware that any civil penalty will be recorded on Home Office systems.

If you do not pay your civil penalty by the due date, debt recovery action will be taken.

Objecting or appealing against a civil penalty

Objecting

On receipt of the penalty, you will have **28 days from the date specified in the notice** to pay the penalty or to object. An objection must be made in writing and submitted on a IWCP-4 pro forma ensuring all mandatory fields are completed with the information required, and providing your reasons for the objection.

You can download the IWCP-4 pro forma from our website using the following link:
www.ukba.homeoffice.gov.uk/sitecontent/applicationforms/sponsors/illegalworking

You can submit your completed IWCP-4 pro forma to the team by post to the following address:

Civil Penalty Compliance Team
PO Box 99
Manchester
M90 3WW

Or by e-mail to:

CPCTEnquiries@homeoffice.gsi.gov.uk

Or by fax to:

0870 336 9287

Reasons for objecting

Your objection must set out your grounds in full for objecting to the penalty. You may object on the grounds that:

- you are not liable to pay the penalty; **or**
- you have a statutory excuse; **or**
- the level of penalty is too high.

The team will review the evidence again in light of your objection and may consider any additional evidence provided of financial means, including evidence of the impact of the civil penalty on the viability of your business.

You may request permission to pay your penalty by instalments. In order to be granted permission, you must provide full details of your ability to pay the penalty over the duration of the instalment plan/your inability to pay the penalty in full.

You should also indicate in your objection whether you have also lodged an appeal. You may wish to first exercise your right of objection and await the outcome before exercising your right to appeal.

Under section 16(4) of the 2006 Act the Secretary of State, when considering an objection, may decide to cancel, reduce, increase, or to take no further action on the penalty.

Appealing

When a penalty is issued, you can appeal to the courts on the grounds that:

- you are not liable to pay the penalty; **or**
- you have a statutory excuse; **or**
- the level of penalty is too high.

On receipt of the penalty, you have **28 days from the specified date** to appeal to the court. If you choose to lodge an objection to the penalty first, you will have **28 days from the date specified** in the notice of determination of the objection to appeal to the court.

If you choose to appeal against the imposition of a civil penalty the court may allow the appeal and cancel the penalty; or allow the appeal and reduce the penalty; or dismiss the appeal.

If you are unsuccessful at the appeal you may also be liable for our costs in preparing for and attending the hearing.

Factors considered when calculating a penalty amount

When you are required to pay a civil penalty, we calculate the penalty amount using a sliding scale up to a maximum of £10,000 for each illegal worker you have employed. We consider a variety of factors when calculating your penalty amount including:

Have you reported suspected illegal workers to us?

If you report to us any suspicions about your employees' right to work for you a sum may be deducted from the amount of penalty due for those workers. You must have reported your suspicions to our Sponsorship and Employers' Helpline on 0300 123 4699 **before** any visit by us is made known to you. When reporting your suspicions, you will be given a unique reference number and this must be referred to in any future correspondence you have with us.

Have you cooperated with us?

The penalty amount due for each worker can be reduced where you have cooperated with us when carrying out checks into your compliance with your employer illegal working duties. This may include providing our officials with access to your premises and employment records when requested. It could also assist your case if you respond in full and within the timescale set to any requests for further information from the Civil Penalty Compliance Team.

Have you had any previous penalties or warnings?

When we consider whether a higher amount of penalty should apply to you if you have been visited and found employing illegal migrants before, previous penalties or warnings will not be considered if they were issued more than three years before the date of the new penalty. Where you have received a penalty or warning within three years of the current penalty, those penalties and warnings will be counted in calculating the amount of your current penalty.

You should note that when we refer to previous penalties this means those issued in respect of both Croatian nationals under the 2013 Accession Regulations and non-EEA nationals under the 2006 Act.

If you are repeatedly found using illegal workers or you are caught employing multiple illegal workers you may be liable for criminal prosecution.

Do you have multiple premises?

You will be required to pay an increased penalty amount if illegal workers are detected at different sites, and this is due to a general failure in your company's centrally set recruitment practices. However, if you are a company with multiple premises where recruitment is devolved to each site, you will not be liable to an increased penalty.

11: Employer support

If you require any further information about what you have read in this guide, you should call our **Sponsorship and Employers' Helpline** on **0300 123 4699**. The dedicated service provides information for sponsors on the points-based system and for employers on preventing illegal working. The helpline is open 9am to 5pm Monday to Thursday and 9am to 4.30pm Friday, except on Bank Holidays. Calls to the helpline may be recorded and used for training purposes.

The Sponsorship and Employers' Helpline cannot provide you with employment advice. If you have questions relating to employment law you may wish to seek independent legal advice.

You can find out more about the helpline on our website at:

www.ukba.homeoffice.gov.uk/business-sponsors/preventing-illegal-working/support/

Illegal working allegations

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

Immigration issues

For advice concerning immigration issues you should contact our **Croydon Contact Centre** on **0870 606 7766**. The opening hours are Monday to Thursday, between 9am and 4.45pm, and on Friday from 9am until 4.30pm.

Email enquiries should be directed to: UKBApublicenquiries@ukba.gsi.gov.uk

You should note that the contact centre cannot answer questions on individual cases by email for data protection reasons.

Passports and identity documents

You can find information on national passports and identity cards from European Union countries, Iceland and Norway on the Council of the European Union website:

www.consilium.europa.eu/prado

Birth and adoption certificates

If an individual does not have a copy of their full birth certificate, a replacement birth certificate may be obtained for a fee from the local registrar in the district where they were born.

Alternatively individuals can order full birth or adoption certificates online through the General Register Office in England and Wales, the General Register for Scotland, or the General Register Office Northern Ireland websites.

Some questions you may have

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Getting an excuse against liability to pay a civil penalty

Q1 Why should I carry out document checks?

- A. We recommend that right to work document checks are carried out on all people you are looking to employ, as this enables you to ensure that you only employ people who are legally allowed to work for you and will give you an excuse against payment of a civil penalty. It also provides evidence of an open and transparent recruitment process, and will ensure that your recruitment practices do not discriminate against individuals on racial grounds.

We have made information available on how to avoid racial discrimination, in addition to a Code of Practice for employers which provides you with guidance on best practice. The Code of Practice does not create any new legal obligations for you or make you liable to any proceedings, but any breach of the Code can be admissible as evidence in any proceedings in a court or tribunal.

If you operate discriminatory recruitment processes you could face prosecution under the 1976 Act or the 1997 Order, and an unlimited fine if you are found guilty of breaking these laws.

Q2 Once I have initially checked a person's documents, is there anything else I have to do during the course of the person's employment?

You can get an excuse against payment of a civil penalty by correctly following steps 1–3 detailed in the section 'The 3 step process'.

If a person you are looking to employ provides a specified document or combination of documents from List A then no further document checks need to be made during the course of that person's employment with you.

If a person you are looking to employ provides a specified document or combination of documents from List B, then to keep your excuse you will need to carry out repeat checks at least once every 12 months to ensure your employee still has the right to work in the UK. You should continue to carry out these repeat checks at least once every 12 months until the employee either produces a specified document from List A, or stops working for you.

Where a person's leave to remain and right to work in the UK expires **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.

You will not at any point have an excuse against liability if you employ a person who you know is not allowed to work for you, regardless of what document checks you carry out.

Q3 How may a British citizen show they are allowed to work in the UK?

- A. A British citizen may demonstrate their right to work by providing either their UK passport as a single document, or a combination of the following documents from List A:
- a document issued by a Government Agency or previous employer containing their National Insurance number and name, such as a P45, P60, National Insurance number card or official letter and
 - a full UK birth certificate; or
 - a full UK adoption certificate; or
 - a certificate of registration as a British citizen; or
 - a certificate of naturalisation as a British citizen.

Q4 What if a person I am looking to employ cannot provide evidence of their right to work?

- A. It is the person you are looking to employ's responsibility to prove that they are allowed to do the job you are offering. You can withdraw your offer of employment to a job applicant if they cannot prove their right to work in the UK and you need to fill the post urgently.

If you do not need to fill your post immediately and the person you are looking to employ does not have any of the documents or specific combinations of documents included in **List A** or **List B**, then you may consider keeping the post open and allowing them time to produce the specified document, or documents, from these lists.

You can find out more information on carrying out document checks and in particular on how to avoid unlawful discrimination in our Avoiding Unlawful Discrimination Code of Practice which can be viewed on our website: www.ukba.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/preventingillegalworking/

Q5 What if person I am looking to employ produces two documents, but not from the specified combinations included in List A or List B?

- A. You will only have an excuse against liability to pay a civil penalty if you are presented with one of the single acceptable documents or the specified combinations of acceptable documents set out in List A or B. We recommend that you do not employ a person who cannot prove they have the right to work in the UK as you may be liable to payment of a civil penalty if they are found working for you illegally.

Q6 What should I do if I have concerns about the documents given to me?

- A. If you have correctly followed the steps detailed in the section 'The 3 step process', and you are not satisfied that the person is the rightful holder of the documents they have produced or that the documents are genuine, then you may wish to request other documentation from them in order to confirm that they can be lawfully employed.

If you have any concerns about the validity of the documents presented to you, you should contact Croydon Contact Centre on **0870 606 7766** for further advice. They will treat any information you provide in confidence, however information may be disclosed within the Home Office and to other Government departments, agencies and local authorities.

Q7 Should I keep original documents?

- A. It is not appropriate for you to keep a person's original documents, except for the purpose of copying them. They must be returned as quickly as possible. The only exceptions to this are:
- when an individual gives you part 2 of a P45, as part of a combination of specific documents in **List A** or **List B**; or
 - when you employ someone for a day or less and it is not practicable to obtain a copy of the documents. **If you decide to do this, you must also have facilities for keeping the documents safe.**

You should not keep a job applicant's original documents for longer than a day.

Q8 How long do I need to keep the copies of any of the documents I have recorded?

- A. You are required to keep any copies you have made for the duration of the individual's employment and for a further two years after they leave your employment. This allows us to determine whether you are liable to pay a civil penalty if we find that a person is (or has been) employed by you who does not have the right to work in the UK. We recommend that you keep these securely in line with data protection requirements.

Q9 What if my copies of the documents are lost or accidentally destroyed?

- A. You can only get an excuse against payment of a civil penalty by copying the specified documents produced to you and keeping those copies.

It is easier to demonstrate that you have done so if you can show that you have a consistent practice of copying documents for each employee. Should you be found to have employed an illegal worker, but your copies of the specified documents have been lost or accidentally destroyed, then our Civil Penalty Compliance Team will take into account past practice when considering your case.

Q10 How can I balance the need for data privacy and the need to satisfy the statutory excuse criteria?

- A. Under the Data Protection Act 1998, there are legal requirements for data to be stored for no longer than necessary and our guidance to you is consistent with the law in this area. The current law (under section 6 (b) of The Immigration (Restrictions on Employment) Order 2007) and our policy guidance on how to get and keep a statutory excuse against payment of a civil penalty, clearly states that you should keep any copies that they have made securely for the duration of the individual's employment and for a further two years after they leave your employment.

Q11 Why does the civil penalty and the criminal offence only apply to employees over 16?

- A. UK law on the prevention of illegal working, including the rules of sections 15 and 21 of the 2006 Act, only applies to those who are aged 16 and over because there are separate rules on the employment of children.

Q12 Will I have an excuse against liability to pay a civil penalty if I take a copy of a Right of Abode Certificate from an expired passport?

- A. A non-EEA national passport endorsed to show that the holder has Right of Abode is evidence of a person's right to work **only if the passport is valid**. Checking the passport of a person you are looking to employ will not provide you with an excuse if the passport has expired.

Immigration control

Q13 Do I need an excuse under section 15 if employing a worker who is exempt from immigration control?

- A. The illegal working rules only apply where you employ an individual who is subject to immigration control. However, we recommend that you always take steps to ensure that a person you are looking to employ, who claims to be exempt from immigration control, is actually exempt to ensure you do not breach section 15 unintentionally or, if you do, that you are able to ensure you have an excuse from payment of a civil penalty.

Carrying out document checks on all individuals will also provide evidence of an open and transparent recruitment process and will ensure that your recruitment practices do not discriminate against individuals on racial grounds.

Q14 Which groups in the UK are not subject to immigration control?

- A. Those who are not subject to immigration control in the UK, and whom you can employ without restriction are:
- British citizens; **and**
 - Commonwealth citizens with the right of abode; **and**
 - Nationals from the Common Travel Area (CTA); **and**
 - Nationals from European Economic Area (EEA)/European Union (EU) countries and Switzerland (except for Romanian and Bulgarian nationals up until 31 December 2013 and Croatian nationals (from 1 July 2013 – 30 June 2017)); **and**
 - Family members of adult nationals from EEA/EU countries and Switzerland, providing the EEA/EU national is lawfully residing in the UK.

You should not employ person on the basis of their claim to belong to one of these groups of people, this will place you at risk of employing someone illegally if their claims are false. You should get an excuse for all of the persons you are looking to employ by correctly following the steps explained in the section 'The 3 step process'.

Q15 Can a British Dependent Territories Citizen who has a connection with Gibraltar legally work in the UK?

A passport which states that the holder is a British Dependent Territories citizen, who has a connection with Gibraltar, is not acceptable as evidence that the person is allowed to work in the UK, **unless** it also contains a valid endorsement to show that the individual is a British citizen.

This could be a Right of Abode Certificate, or the person can provide a document, or documents that otherwise confirms their exemption from immigration controls. This will mean that the holder will not have any conditions placed upon them whilst living and working in the UK.

If a document contains such an endorsement, then it may be accepted as a single document and you may get an excuse by correctly carrying out the document checks as described in the section 'The 3 step process'.

Documents that do not show a person is allowed to work in the UK

Q16 Many British citizens do not have a UK passport or a full birth certificate, so why is the short birth certificate not acceptable as a document under section 15?

- A. The short birth certificate is a document that has proved vulnerable to forgery. An individual could enter fictitious details about their parents or attempt to work here illegally by making a false statement about themselves. These types of false representation can be prevented by the requirement for a full birth certificate.

In addition, a full birth certificate also gives useful background information which is absent from the short birth certificate, for example it provides: the names of the individual's parents, where they were born, their occupation and address at the time of the individual's birth, and the place where the individual was born. This information may be used to confirm personal details if necessary.

Q17 Why can't I depend on a National Insurance number as a single document?

- A. The purpose of the National Insurance (NI) number is primarily to monitor an individual's National Insurance contributions and credited contributions. The NI number is also used as a reference number for individuals within the social security system; it was neither intended, nor designed to be a tool for identifying or determining an individual's immigration status.

Not all NI number holders will be allowed to work in the UK. **A NI number alone in any format is not acceptable evidence of a person's right to work in the UK and will not give you an excuse against payment of a civil penalty.** You must check acceptable documents showing the NI number and name of the holder **together with** one of the combinations specified in List A or B.

Q18 What if I check other documents which provide evidence of someone's identity?

- A. Only checking the acceptable documents specified in **List A** or **List B** will allow you to get and then keep an excuse against payment of a civil penalty. The following documents are not acceptable in proving right to work in the UK and will not give you to have an excuse against 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;
 - 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 National Insurance (NI) number when presented in any format in isolation;

- a card or certificate issued by HM Revenue and Customs (HMRC) under the Construction Industry Scheme;
- a full or provisional driving licence issued by the Driver and Vehicle Licensing Agency (DVLA);
- a NI number beginning with **TN**, or any number which ends with the letters from **E to Z** inclusive;
- a licence provided by the Security Industry Authority;
- a document check by the Criminal Records Bureau;
- a bill issued by a financial institution, or a utility company.

You may also see some passports which contain the word 'British' but which will not give you an excuse against liability for a civil penalty (unless it contains a certificate of entitlement or a relevant endorsement). These are:

- a British Visitor's Passport; **or**
- a passport that describes the holder as:
 - a British National (Overseas);
 - a British Dependent Territories Citizen;
 - a British Overseas Territories citizen;
 - a British Overseas citizen;
 - a British subject; or
 - a British protected person.

Q19 Why isn't a British visitor's passport acceptable?

- A. The rules state that the passport must describe the holder as a 'British citizen, or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.'

A British visitor's passport only contains the following words: 'British Subject. Citizen of the United Kingdom and Colonies.' This does not give the same rights and privileges on the holder as a full British passport, nor does it meet the requirements of the rules. It does **not** give you an excuse against payment of a civil penalty under section 15 as it is not acceptable proof of right to work in the UK.

Q20 Why aren't driving licences issued by the DVLA acceptable?

Although the photo card driving licence contains a digital image and states the country of birth, it does not definitely confirm the holder's nationality, or their right to work in the UK. Whilst the Driver and Vehicle Licensing Agency might carry out necessary document checks to confirm an applicant's identity, this is because they are responsible for issuing documents that confirm an individual is allowed to drive a vehicle, rather than confirming whether or not they have a right to work in the UK.

Q21 Can an adopted person, who is a British citizen and who does not have a full birth certificate, prove their right to work in the UK with their adoption certificate?

- A. Yes, when the full adoption certificate, which includes the names of one of the adopted parents, is given to you in combination with an acceptable, official document showing their properly documented, National Insurance number.

Definition of an employer

Q22 What is the definition of ‘employer’ for the purposes of sections 15 and 21 of the 2006 Act?

- A. An ‘employer’ is defined as a person who employs an individual under a contract of employment. This may be a contract of service or apprenticeship, whether express or implied. If the contract is expressed, this can be either orally or in writing. In most cases, it should be clear when you are entering into such a contract of service with an employee, and that you need to carry out the appropriate checks to have an excuse.

Q23 How can I tell if a person I am looking to employ will be classed as someone who is ‘self-employed’ or ‘my employee’ for section 15 purposes?

- A. In some cases, it may not be easy for you to decide whether someone who will work for you will be your employee or will be self-employed.

The criteria below should provide you with a guide as to your worker’s status, although it is only a brief guide and does not cover every situation. For each relationship, the whole picture needs to be assessed in light of the facts.

If you can answer yes to the following questions, then that would suggest that the worker is, or will be, your **employee**:

- Will you require the personal service of the worker?
- Will you be able to control when and how the work is done, what tasks have to be done and where the services are performed?
- Will you supply the tools or other equipment needed to do the work?
- Will the employee be paid by the hour, week or month and receive overtime pay?

If, on the other hand, you can answer yes to the following questions; that would suggest that your worker is **self-employed**:

- Will the worker have the right to provide a substitute, or engage their own helpers?
- Will the worker decide whether or not to accept individual tasks and how to carry them out?
- Will the worker make their own arrangements for holidays or sickness absences?
- Will the worker be free to do the same type of work for more than one employer at the same time?
- Will the worker provide the main items of equipment needed to do the job in question?
- Will the worker have a real risk of financial loss?

Where there is any doubt, we recommend that you check the person’s right to work, rather than risking payment of a civil penalty if you are found to be employing an illegal worker.

Q24 As a parent, am I responsible for checking whether my nanny or childminder is allowed to work in the UK?

- A. Nannies cannot usually be classed as self-employed, as the nature of their work does not meet the HM Revenue and Customs criteria for self-employed status, so you, as their employer, are responsible for checking their right to work before you employ them.

Employing a child carer, such as an approved nanny, is different from engaging the services of a childminder, who is usually self-employed. A childminder is responsible for setting their own hours of work, their own fees and conditions, whereas you are responsible for setting your approved nanny's hours, wages and conditions. In cases where a child carer is genuinely self-employed, you will not be their employer for the purposes of section 15 of the 2006 Act.

Q25 Am I defined as the 'employer' if I use an employment agency to find my staff?

- A. This will depend on the nature of the relationship between you and your worker. If you use an employment agency to find new staff for you, but you then employ those staff under a contract of service with you, then you will 'employ' those people for the purposes of these rules and you are responsible for checking their right to work.

If you obtain workers from an employment agency and it is apparent from all of the facts and circumstances that the nature of the relationship is such that they are not your employees, then you will not 'employ' them for the purposes of these rules and you do not need to check their right to work.

You may lose the service of any of your workers if they are found to be working illegally in the UK.

Q26 I am running an employment agency. Do I have to carry out the checks?

- A. Again, this will depend on the nature of the relationship between you and your worker. If you supply temporary workers to your clients for temporary assignments, you will probably be the employer for the purposes of section 15 of the 2006 Act.

If you introduce workers to client employers for direct employment by those hirers (i.e. "permanent recruitment") you will not be the employer for the purposes of section 15, as these will be the responsibility of the client. However, you will still need to check the identity of the worker (and that they have the experience, training, qualifications and any authorisation necessary to carry out the work) for the purposes of employment agency legislation.

You can find out more information on employment agency legislation from the Department for Business, Innovation and Skills at: www.bis.gov.uk/policies/employment-matters

Q27 Who in the organisation is held liable for employing someone illegally?

- A. The 'employer' may be subject to a civil penalty and it will depend on the circumstances of each case who that might be. It may, for example, be a named individual, a company, or each partner in a partnership. If it is a corporate body, then that body itself may be liable.

If the employer is a company, any director, manager, company secretary or other similar officer, or any person who was claiming to act in such a capacity may also be liable to pay a civil penalty, or be guilty of a criminal offence, if it was committed with their consent or connivance, or as a result of their negligence.

In the case of the offence of knowingly employing a migrant worker (under section 21 of the 2006 Act), each partner in a partnership will be considered guilty of the offence and will be proceeded against accordingly. The position is different for a limited partner in a limited partnership who will only be liable in those circumstances where a director, manager, company secretary or other similar officer or any person claiming to act in such a capacity of a company would be liable.

Q28 What if I acquire staff as the result of a TUPE transfer?

- A. Employers who acquire staff as a result of a Transfer of Undertakings (Protection of Employment) Regulations transfer are provided with a grace period of 28 days in which to carry out the appropriate document checks and get an excuse, following the date of transfer.

Q29 I am an employer based in the UK and I wish to employ a non-EEA national based outside the UK. Would I be required to check my employees' right to work?

- A. As an employer, you place yourself at risk of payment of a civil penalty by employing a person aged 16 or over who is subject to immigration control and who is not allowed to carry out the work for you.

The law states that the offence of employing an illegal worker only applies where a person employs an individual who is "subject to immigration control." Therefore, if your company has a base in the UK and your employee will be required to carry out some of their duties in person in the UK, you should ensure your employees are allowed to work in the UK if you wish to have an excuse against payment of a civil penalty. Even if the employee spends much of their time abroad; the employee may still be classed as part of the UK workforce.

Q30 My business employs workers on a casual basis through the internet. Managers do not meet with employees and are therefore unable to confirm the identity or right to work of their employees. What steps can I take to ensure that I am not liable to pay a civil penalty?

- A. If the company is classed as an 'employer,' then they will be responsible for checking their employees' right to work. However, if the company are contracting out specific jobs or services for individuals, for example, website designers, then the workers may not fall into the category of 'employees' and the company may not be responsible for checking their right to work.

There are cases where the law is unclear and for further clarification, the Department for Business, Innovation and Skills and HM Revenue and Customs provide further information on how to define who is an 'employer' and who is an 'employee'.

In order to have an excuse against payment of a civil penalty, the employer must satisfy themselves that the person that they are employing is allowed to work for them. This should be done by correctly following the steps explained in the section 'The 3 step process', and will involve meeting with the person you are looking to employ to confirm that the person is the rightful holder of the documents provided. The checks should be carried out before employment is offered.

National Insurance (NI) numbers

Q31 Can I accept any document which contains a NI number?

- A. No. The following will not demonstrate that a person has a NI number:
- a card or certificate issued by HMRC (formerly the Inland Revenue) under the Construction Industry Scheme (a CIS card); or
 - a document with an invalid NI number. This would include any number beginning with TN, or any number ending in a letter from E to Z inclusive.

Q32 What if a job applicant produces one of the documents from a required combination, but does not have a document containing a NI number? Should I employ that person and obtain a NI number for them after they start working for me?

- A. A person can start work without a NI number. However, most job applicants who do not possess national passports, but who are able to work here, will already have been issued with a NI number by the Department for Work and Pensions' Jobcentre Plus. You will need to have checked and copied a person's NI number, along with one of the other specified documents before employing them to have an excuse against payment of a civil penalty.

A person can apply for a NI number by telephoning Jobcentre Plus on **0845 600 0643** between 8am and 6pm Monday to Friday. For people who are hard of hearing, or who have speech difficulties, text phone can be dialled on **0845 600 0644**. You can find further information about NI numbers and the application process on the Directgov website at: www.direct.gov.uk/en/MoneyTaxAndBenefits/Taxes/BeginnersGuideToTax/NationalInsurance/IntroductiontoNationalInsurance/DG_190057

Q33 What if a UK resident who is under 20 applies for a job with me and claims they have not been issued with a NI number, but does have a full UK birth certificate?

- A. Nearly all residents in the UK are automatically given a NI number as they approach the age of 16. On, or after reaching the age of 15, a young person should receive notification of their NI number.

A small number of young people may, however, miss the automatic registration process. Providing they are over the age of 15 years and 9 months and under 20 years of age, you should advise them to contact the Juvenile Registration Helpline on **0845 915 7006** which will ensure that they are registered and issued with a number quickly, providing they are entitled to one. You may wish to consider keeping a job offer open until that person can demonstrate that they have been issued with a number.

If an applicant is 20 years or over and does not have a NI number, then they will need to apply as an adult. They can do this by telephoning **0845 600 0643** between 8am and 6pm Monday to Friday. If they are hard of hearing, or have speech difficulties, they should call text phone on **0845 600 0644**.

Q34 Do workers from EEA member states need a NI number to prove that they have the right to work in the UK?

- A. If a national of an EEA country or Switzerland provides a national passport or national identity card to you, then they will not be required to provide evidence of a valid NI number to show their right to work. Nationals from all of these countries are not subject to sections 15 or 21 of the 2006 Act.

However, some EU nationals are subject to restrictions. Workers from Bulgaria and Romania are free to come to the UK but are subject to worker authorisation unless they are exempt up until 31 December 2013. You can find out more information in the section on 'Employing workers from the European Economic Area'.

Employing asylum seekers

Q35 Can I employ asylum seekers?

A. Asylum seekers may request permission to work from the Secretary of State if:

- An application has been made for asylum;
- No decision at first instance has been made within one year of the date on which the application for asylum was recorded;
- The delay in determining the asylum application cannot be attributed to the asylum seeker.

If an asylum seeker is granted permission to work they will be issued with an Application Registration Card (ARC) that states:

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

Permission to work does not include permission to become self-employed or to engage in a business or professional activity. Any permission to work will come to an end for asylum seekers once the asylum application has been finally determined (that is, once appeal rights are exhausted),

Paragraph 360 C of the Immigration Rules allows **failed** asylum seekers who have exhausted their appeal rights to request permission to work from the Secretary of State if:

- They have made further submissions asserting that they have a fresh claim for asylum;
- No decision has been made on those further submissions within one year of the date on which they were presented;
- The delay in making a decision on the further submissions cannot be attributed to the individual.

If a failed asylum seeker is granted permission to work they will be issued with an Application Registration Card (ARC) that states:

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

Permission to work under paragraph 360 C does not include permission to become self-employed or to engage in setting up a business. Any permission to work will come to an end for failed asylum seekers once a negative decision has been taken on a further submission or, in the event that appeal rights are granted, those appeals are exhausted.

From 9 September 2010, any asylum seeker or failed asylum seeker who applies for permission to work because they have been waiting for 12 months or more for a decision on their initial application or further submission will only be able to carry out a job on the Shortage Occupation List which can be viewed or downloaded from our website: www.ukba.homeoffice.gov.uk/business-sponsors/points/sponsoringmigrants/employingmigrants/shortageoccupationlist/

Those granted permission to work before 9 September 2010 and those that were already allowed to work at the point at which they claimed asylum will not be restricted to jobs on the Shortage Occupation List.

Q36 How will I know if an asylum seeker or failed asylum seeker is able to work?

Any asylum seeker or failed asylum seeker who is allowed to work must demonstrate this through their Application Registration Card (ARC). If they have the right to work the ARC will state:

- Allowed to Work
- Employment Permitted
- Work Restricted – SOL (which means Shortage occupation List)
- Work Restricted – Student
- Work Restricted – Other

To get an excuse against payment of a civil penalty you must receive positive confirmation of the holder's right to work from our Employer Checking Service. You can find out more about this in the section on 'Verifying right to work in the UK.'

Some asylum seekers have restrictions on the kind of work they can do. If an asylum seeker gives you an ARC stating that work is restricted then you should make sure that you do not employ them in breach of these restrictions as you may be liable to payment of a civil penalty.

If person you are looking to employ gives you a letter alongside their ARC that states that they only have permission to work in a job on the 'Shortage Occupation List', you must satisfy yourself that the job which you may offer to the applicant is on this list. Our Employer Checking Service will be able to confirm this when you submit your confirmation request. You can view or download the list from our website at: www.ukba.homeoffice.gov.uk/sitecontent/newsarticles/2011/november/18-short-occup

Q37 What if an individual presents me with a Standard Acknowledgement Letter (SAL), or IS96W letter, which states that they are allowed to work?

- A. You **should not** employ anyone on the basis of checking either of these documents, as they **will not** demonstrate the person is allowed to work and will not give you an excuse against liability to pay a civil penalty. Any asylum seeker who is allowed to work will need to produce their Application Registration Card (ARC) to show this which clearly states:

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

If a job applicant is an asylum seeker who can work, but does not have an ARC, you should advise them to call us on 0151 213 2174 for further information about how to obtain one.

Q38 I am already employing an asylum seeker, who I employed on the basis of seeing their SAL or IS96W. Should I ask for an Application Registration Card (ARC), or conduct ongoing checks?

- A. No. If your existing employee produced a Standard Acknowledgement Letter (SAL) or an IS96W letter which stated that the holder had the right to work, prior to employment commencing before 1 May 2004 and you established a defence for that person under section 8 of the 1996 Act, then you will not need to ask them for an ARC during the course of that employment. You will still have a defence under section 8.

Employing workers from the European Economic Area

Q39 Can I accept an identity card from any EEA member state in order to have an excuse against liability to pay a civil penalty?

- A. If your prospective employee presents you with an identity card, you must check that this describes the holder as a national or citizen of the relevant EEA country. Some EEA countries issue identity cards to individuals who are resident in their country, but who are not nationals. These individuals will usually have cards which make it clear that they are not nationals of the EEA country concerned, and these will not show a person's right to work, or give you an excuse against payment of a civil penalty.

If you have any doubts about whether an identity card allows the holder to work or rightfully belongs to them, you should ask that person to produce their national passport. If you still have doubts about whether that person is allowed to work in the UK, having correctly carried out all the steps on in the section on 'How to carry out document checks', then you are allowed to refuse employment to that person until they can appropriately prove their right to work.

You can find further information about documents from EU countries, Iceland and Norway from the Council of the European Union website: www.consilium.europa.eu/prado/

Q40 Is the UK Residence Permit the same as the Registration Certificate issued to EEA nationals?

- A. No. The two documents are different. A UK Residence Permit is an endorsement in the form of a visa, or sticker, usually placed in a passport issued to non-EEA nationals who have been granted leave to enter or remain in the UK for longer than six months under the Immigration Rules. An EEA Registration Certificate is a free standing document issued only to EEA and Swiss nationals by us to confirm their residence in the UK under European law.

Q41 What is a residence card?

- A. Residence cards are issued to family members of EEA nationals who are not themselves EEA nationals. They confirm the holder's rights of residence under European law on the basis of their relationship with the EEA national. The holder of such a residence card can work in the UK without restriction. Residence cards take the form of an endorsement placed in the non-EEA national's passport or on an Immigration Status Document where a passport is not available. The residence card is issued with a validity of 5 years.

Q42 Can a non-EEA national who was formerly a family member of an EEA national maintain their right to work in the UK?

- A. When a non-EEA national is no longer the family member of an EEA national, for example, due to the grant of a decree absolute on divorce, they would generally stop having a right of residence in the UK under EU law. As a non-EEA national family member gains their right of residence and access to the labour market through residing with their EEA family member in the UK, then when this relationship ends, they would no longer have a right to work in the UK unless they have a work right in their own right such as when they have kept a right of residence under European law. This could be based on circumstances such as where the non-EEA national was the main carer of any children from the relationship. Such a non-EEA national would have a continued right of residence on this basis.

Q43 What is a Certificate of Application?

- A. Family members of nationals from EEA countries and Switzerland may apply for residence documents, such as a residence card, which may demonstrate their right to work in the UK. However, under European law, many are also allowed to be employed whilst these applications are under consideration, and before residence documents have been issued by us. We will provide such applicants with a letter of acknowledgment, which is the Certificate of Application.

To verify the right of the holder to work in the UK and to get an excuse, you should contact our Employer Checking Service when a prospective employee who produces a Certificate of Application. The Certificate of Application will only give you an excuse if it is less than six months old and if you request and then receive positive confirmation of the individual's right to work from our Employer Checking Service. As this document is a List B document, you must repeat this check and receive positive confirmation of the individual's continued right to work, within 12 months to keep your excuse. You can find out more about this in the section on 'Verifying right to work in the UK'.

Employing students

Q44 Are non-European Economic Area students allowed to work in the UK?

- A. Students from outside the EEA are allowed to take some employment in the UK, providing their conditions of entry to the UK allow this. Those studying here who have entered the UK as 'student visitors' are not allowed to work.

There are strict conditions on the work students can carry out while they are studying in the UK. These will vary depending on whether the student was granted leave under our points based system (Tier 4) which came into force from 31 March 2009, or the rules in place before Tier 4. To find out which conditions apply, you will need to ask your prospective employee when they applied for leave to study in the UK. You can find out more about these conditions in the section on 'Employing students'.

We recognise that on some occasions it may be difficult for you to confirm an applicant's student status or otherwise. You should remember that responsibility lies with the student, as it does for all of your prospective employees, to demonstrate that they are able to work for you legally.

You are allowed to request extra documents to reassure yourself that the person in front of you is a student. This could include an authorised letter from their place of study confirming their status.

Q45 Students from outside the EEA can work for 20 hours per week or 10 hours per week during term time depending on when their leave was granted or on their course of study and/or on the type of educational provider they are studying with. Students can only work full time outside of their term time. How do you define term time?

- A. Students should be able to provide evidence of the term dates for their course if required. However, there may be periods of time where a student is not expected to attend classes, but when they should be spending their time studying, writing a dissertation, or preparing for exams as part of their course. They should not be working full time during this period.

Q46 How does the 20 hour rule affect non-EEA postgraduate students?

- A. Postgraduates do not follow the normal pattern of students, and it is accepted that their course may involve research work as part of their course requirements. However, researchers who are specifically employed by an institute will require sponsorship, whereas Junior Research Fellows in receipt of scholarships are treated as students and are subject to restrictions on the hours that they can work.

Q47 What about work placements?

- A. Tier 4 students will be allowed to do a work placement as part of their course of study, as long as the work placement is an assessed part of the course and they are:

- a Tier 4 (General) student studying a course of degree level study or above, or
- a Tier 4 (General) student studying a foundation degree course, or
- a Tier 4 (General) student studying a course with a highly trusted sponsor, or
- a Tier 4 (Child) student who is 16 years old or over

A Tier 4 student is **not** allowed to take a work placement which occupies more than 50% of the course or period of study (except where it is a statutory requirement). However there is no specified maximum period for work placements which form part of a pre-Tier 4 student's course of study provided the requirements below are met.

Pre-Tier 4 students (those who applied for leave before 31 March 2009) can do a work placement as part of a sandwich course. A sandwich course is a course that includes a clearly defined work placement approved by the institution providing the course. A student is allowed to follow a sandwich course provided:

- The course leads to a recognised degree or to a qualification awarded by a nationally recognised examining body, and
- The work placement does not extend beyond the end of the course.

Provided these requirements are met, a pre-Tier 4 student is allowed to take a full time work placement during term time. This is in addition to their right to take employment (not related to the course) of up to 20 hours per week during term time.

Q48 Can a non-EEA student with valid leave to enter or remain in the UK defer (postpone) their studies?

Students who have enrolled on a course may sometimes defer the start, or a later part of a course. This may happen for a variety of reasons. The only circumstances in which we would have granted leave to remain to such a student is if the student needed to

postpone their studies for reasons beyond their control (e.g. an illness or an accident, or as a result of a decision made by the educational provider at which they are attending) and the application was supported by the educational provider. In all other circumstances, the person would be expected either to leave the UK or apply for leave to remain in the UK in a category appropriate to their circumstances.

Q49 What are the rules for student nurses?

Student nurses granted leave under the Immigration Rules in force prior to 31 March 2009:

For the purpose of the rules before Tier 4 of the points based system was introduced, a student nurse means a person accepted for training as a student nurse or midwife leading to a registered nursing qualification.

You can employ a student nurse for more than 20 hours per week during term time, provided the employment is **directly related** to their studies and is carried out with the agreement of the educational establishment providing the course.

Student nurses granted under these rules are not normally allowed to take employment which is not related to their studies.

Further information on pre-Tier 4 student nurses is contained in Chapter 3, Section 5 of our Instructions, which can be viewed at the following link: www.ukba.homeoffice.gov.uk/sitecontent/documents/policyandlaw/IDIs/idischapter3/section5/section5.pdf?view=Binary

Student nurses who applied for permission to enter or remain in the UK on or after 31 March 2009 are considered under Tier 4 of the points based system and are therefore subject to the normal Tier 4 conditions which can be viewed on our website: www.ukba.homeoffice.gov.uk/visas-immigration/studying/

Further questions

Q50 Can I be liable for payment of a civil penalty if I am found to be providing voluntary work to someone without the right to work in the UK?

- A. As an employer, you place yourself at risk of getting a civil penalty if you employ a person aged 16 or over who is subject to immigration control and who has no permission to work in the UK, or who works for you in breach of their conditions of stay in the UK.

The Immigration Rules prevent certain categories of entrant from carrying out voluntary work or voluntary activity, such as visitors and au pairs. However, the legal distinction between an employee and a volunteer can be quite complex and there are huge differences between the types of voluntary work or voluntary activity that people can be involved in. We would not wish to give advice which might lay voluntary organisations open to prosecution for employing people illegally. Therefore, we strongly recommend that organisations seek independent legal advice for their specific volunteering activity.

Voluntary activity must not amount to unpaid work, volunteer work or job substitution. There is a fundamental difference in the nature of the activity itself and the specific exclusion of work (whether it is paid or unpaid). Our guidelines for volunteers are:

- there should be no payment, other than reasonable travel and meals expenditure actually incurred (not an allowance for the same);
- there should be no contractual obligations on the volunteer;
- the volunteer is providing a service for a registered voluntary or charitable organisation (or organisation that raises funds for either);
the service is not a substitute for employment (i.e. fulfilling a role that a salaried worker would normally fulfil).

Volunteering is distinct from work – paid or unpaid, and therefore is no longer covered in this specific guidance in any further detail.

Q51 How can I get a statutory excuse if a person I am looking to employ or existing employee has applied for further leave to remain in the UK, but their documents are with the Home Office?

- A. Our Employer Checking Service assists employers where employees' documents are with us in connection with an outstanding application or appeal. In these instances you should request confirmation of a person's right to work in the UK from our Employer Checking Service and you must receive a positive confirmation in response in order to get an excuse against liability for a civil penalty. You can find out more about this in the section on 'Verifying right to work in the UK'.

Q52 Does the requirement to show a combination of National Insurance number and a birth certificate discriminate against British citizens who have been or are in the process of gender transitioning? The requirement may cause problems for a person in this situation.

- A. We accept that being given a National Insurance number and a second document, such as a birth certificate, may present problems for an individual who is undergoing, or who has completed the process of gender transitioning. However, it is possible for a UK national to obtain a UK passport with their new identity, and checking this single document will provide your excuse.

To apply for the passport, the individual would need to send their birth certificate and a Change of Name Deed or Statutory Declaration regarding their change of name to the Identity and Passport Service. Where the individual is in the process of gender transitioning, they would also need a letter from their doctor/consultant confirming they had lived in their chosen gender and that the change is likely to be permanent. Where the operation has already taken place, written confirmation would be required that the person has had the operation and that the change is permanent.

All cases would then be considered individually. Where the application is successful, the passport would then be issued for their new identity.

Annex A: Framework for calculating the amount of a civil penalty

		Nature of checks completed					
		Full		Partial		No	
Occasion on which warning/penalty issued	3rd+	No penalty	Maximum penalty of £10,000 per worker		Maximum penalty of £10,000 per worker		
			May be reduced by up to £1,250 per worker reported	May be reduced by up to £1,250 per worker, with cooperation			
			Suggested minimum penalty of £7,500 per worker				
	2nd	No penalty	Suggested maximum penalty of £7,500 per worker		Maximum penalty of £10,000 per worker		
			May be reduced by up to £1,250 per worker reported	May be reduced by up to £1,250 per worker, with cooperation	May be reduced by up to £1,250 per worker reported	May be reduced by up to £1,250 per worker, with cooperation	
			Suggested minimum penalty of £5,000 per worker		Suggested minimum penalty of £7,500 per worker		
	1st	No penalty	Suggested maximum penalty of £5,000 per worker		Suggested maximum penalty of £7,500 per worker		
			May be reduced by up to £2,500 per worker reported	May be reduced by up to £2,500 per worker, with cooperation	May be reduced by up to £2,500 per worker reported	May be reduced by up to £2,500 per worker, with cooperation	
			No penalty and a warning letter may be issued		Suggested minimum penalty of £2,500 per worker		

Annex B: 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

You must ask for and be given an acceptable document.

- 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 original documents.

Acceptable 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 an EEA country or Switzerland
3. ☐ A residence permit, registration certificate or document certifying or indicating permanent residence issued by the Home Office to a national of an EEA country or Switzerland
4. ☐ A permanent residence card or document issued by the Home Office to the family member of a national of an EEA country or Switzerland
5. ☐ A Biometric Residence Permit issued by the Home Office to the holder indicating that they are allowed to stay indefinitely in the UK, or have 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 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 their name and National Insurance number
8. ☐ A full birth **or** adoption certificate issued in the UK including 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 their name and National Insurance number
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 their name and National Insurance number
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 their name and National Insurance number
11. ☐ A letter issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK **together with** an official document issued by a previous employer or Government agency with their name and National Insurance number

Acceptable Documents List B

1. ☐ A passport or travel document showing they are 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 Home Office to the holder indicating that they can stay in the UK and are allowed to do the work you are offering
3. ☐ A residence card or document issued by the Home Office to a family member of a national of an EEA country or Switzerland
4. ☐ A work permit or other approval to work issued by the Home Office **together with either** a passport or travel document showing the holder is allowed to stay in the UK and to do the work or a letter issued by the Home Office confirming the same
5. ☐ A Certificate of Application **less than 6 months** old issued by the Home Office to or for the family member of a national of an EEA country or Switzerland stating they are allowed to work **together with** a positive verification letter from the Home Office's Employer Checking Service

6. ☐ An Application Registration Card issued by the Home Office indicating that they are allowed to work **together with** a positive verification letter from the Home Office's Employer Checking Service
7. ☐ An Immigration Status Document issued by the Home Office indicating that they can stay in the UK and are allowed to do the type of work **together with** an official document issued by a previous employer or Government agency with their name and National Insurance number
8. ☐ A letter issued by the Home Office to the holder or to you as the potential 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 their name and National Insurance number

Step 2

You must 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.**

1. Are photographs consistent with the appearance of the person? ☐ Yes ☐ No ☐ N/A
2. Are the dates of birth listed consistent with the appearance of the person? ☐ Yes ☐ No ☐ N/A
3. Are expiry dates for limited leave to enter or remain in the UK in the future (if applicable) i.e. they have not passed? ☐ Yes ☐ No ☐ N/A
4. Do any endorsements show the person is able to work for you and do the type of work you are offering? ☐ Yes ☐ No ☐ N/A
5. Are you satisfied that the document is genuine, has not been tampered with and belongs to the holder? ☐ Yes ☐ No ☐ N/A
6. Have you asked for further documents to explain why you have been given documents with different names? ☐ Yes ☐ No ☐ N/A

Step 3

You must take and retain a copy the documents.

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

Is 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 Home Office 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.

☐

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 carryout 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:

You will not have an excuse if at any point during the employment, you know that the above named person is not allowed to work for you, or to carry out the type of work in question and you may face criminal action.



Sican
26 - 28 Whitfield Street, London W1T 2RG

Introduction

1. I, Nad Valaydon, of Better Compliance, make this statement to provide additional and relevant information regarding an application for a Review of the Premises Licence under Section 51 Licensing Act 2003, for Sican.
2. I have been a licensing consultant with Better Compliance for two years. Better Compliance has a respected reputation amongst the Police, local authorities, and our private clients.
3. I have been a licensing officer since 2011. I have worked as a licensing officer in the London boroughs of Southwark, Croydon, Hillingdon, Richmond, and the City of London Corporation. I am currently a licensing officer with the London Borough of Morden.
4. I am a member of the Institute of Licensing (MloL). I have given evidence at Licensing Committees and Magistrates Courts.
5. Better Compliance is engaged by a wide variety of premises including nightclubs, bars, restaurants, and hotels. Retainer clients include The London Park Lane Hilton (Westminster), the Truman Brewery complex (Tower Hamlets), The Outernet – HERE and The Lower Third (Camden), Tape London (Westminster), The Box Soho (Westminster), Cirque Le Soir (Westminster), Reign (Westminster), Raffles (Royal Borough of Kensington and Chelsea), Tabu (Westminster), Gaia Restaurant (Westminster), House Party (Westminster), Swingers Golf (City of London and Westminster), Lio London (Westminster), Dear Darling (Westminster), The Mothership Group – The Queen of Hoxton, The

Book Club and Colours Hoxton (Hackney) and The Night Group – Night Tales and NT's Loft (Hackney).

6. I have worked with many venues, in many different environments, to design successful management procedures to ensure the promotion of the Four Licensing Objectives, current best practice and compliance with legislation and regulations.

Instructions and Scope of Work

7. I have been provided with the application, representations and the Premises Licence for Sican.
8. My instructions are to provide a report of a licensing observation I recently conducted at Sican.
9. I confirm that, notwithstanding that I have been engaged as a consultant by the applicant, I have prepared this Witness Statement together with all opinions expressed herein, as an independent professional licensing consultant.

Licensing Observation

10. I conducted a licensing observation on Friday 17th January 2025 at 23:40 hours. The weather dry and cold.
11. The area is made up of both commercial and residential properties. Gallery opposite Sican (no.27) closed, Spaghetti House next door closed and building other side, next door is unoccupied with major works ongoing and scaffolding erected. The Fitzrovia (pub) on Goodge St open with approximately 20 customers inside. Off Licence & Vape (shop) open on Goodge St with a few cars parked outside with customers in shop. Two vehicles parked outside Tesco (closed) on Goodge St, 5 people outside vehicles talking/laughing. The Royal Cocktail Exchange (cocktail bar) open with approximately 9 customers inside, situated at the bottom of Whitfield Street.

12. There is some fixed furniture adjacent to Crabtree Fields on Whitfield St, at the time of observation 2 individuals were sat in chairs, listening to music via a speaker and eating pizza
13. Goodge St and Tottenham Court Road stations are located nearby along with various bus stops. There was a steady stream of vehicles on Goodge Street. Various pedestrians who seemed intoxicated walking past Whitfield Street via Goodge Street. A few pedestrians seen using Colville place as a thoroughfare between Whitfield Street and Charlotte Street.
14. Sican is a restaurant and bar over two floors, ground and basement levels, has one entrance/exit for customers which was covered by one SIA door staff.
15. As I approached Sican a group of 5 individuals were being refused entry by the GM and door staff, this was due to one of the individuals holding a pint glass with the time also being a factor.
16. The basement was closed with only the ground floor operating, one male and female sat at one table (mid-twenties), a group of nine females (early thirties) sat at another table who seemed in good spirits.
17. No customers were smoking at time of observation, which is limited to 4 with no drinks allowed outside. There were no tables or chairs placed externally.
18. At 00:15 hrs the DJ announced last few tracks will be played with the lights being turned up.
19. At 00:20 hrs 5 of the group of 9 females exited the premises and were encouraged to keep the noise down and respect the residents. By this time a manager from the premises was positioned by Crabtree Fields in a high vis to help with dispersal.

20. At 00:25 hours 7 customers from The Fitzrovia congregated outside the premises and were discussing where to go next, loudly and seemed intoxicated.

21. At 00:28 hours uber driver using horn to pick up a fare, not associated with Sican, on Goodge Street.

22. At 00:30 hours and 00:36 hours last customers leave premises, again encouraged by staff to leave quietly and respect residents.

Conclusions

23. During my observation, I saw nothing which adversely impacted the four licensing objectives.

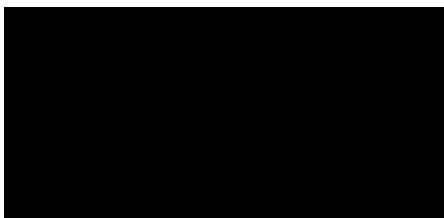
24. Staff were proactive in supervising and managing guests leaving the premises.

25. When I stood outside the premises, I could not hear music from inside the premises.

26. In my professional opinion, there are no concerns I feel I need to highlight in terms of the management of the venue.

27. I confirm that I have made clear which facts and matters referred to in this report are within my own knowledge and which are not. Those that are within my own knowledge I confirm to be true. The opinions I have expressed represent my true and complete professional opinions on the matters to which they refer.

Sig

A large black rectangular box redacting the signature of Nad Valaydon.

Dated: 18th January 2025

Nad Valaydon