



This webinar will start shortly

Thank you for joining with us!

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Immigration rules – conducting right to work checks and navigating upcoming changes

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Speakers

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Current climate

Home Office Media blog
2 September 2025

“Increased illegal working visits by 48% and arrests by 42%, with employers facing fines of up to £60,000 per illegal worker”

Yvette Cooper
Former Home Secretary
1 September 2025

“We have increased raids and arrests on illegal working by 50%”

Shabana Mahmood’s plan
8 September 2025

“The UK could cut the number of visas granted to countries that delay or refuse returns of individuals with no right to remain in the UK”

POLL QUESTION

By how much did illegal working civil penalties issued by the Home Office increase between first quarter 2024 and first quarter 2025?

- A. 51%
- B. 65%
- C. 81%

<https://www.gov.uk/government/news/nationwide-clampdown-on-delivery-riders-working-illegally>

Agenda

- 01 Why are right to work checks so important?
- 02 Protecting your business from civil penalties
- 03 How to carry out right to work checks
- 04 Pitfalls
- 05 Expansion of illegal working regime



1. Why are right to work checks so important?

Consequences of not doing checks (or not doing them properly)

For businesses

- Up to **£60,000** civil penalty per employee working without permission
- **Criminal offence** – unlimited fine/custodial sentence of up to five years
- **Sponsor licence revocation** (which will usually lead to having to dismiss all sponsored employees)
- **Reputational damage**, deterring investors and customers
- Seizure of earnings made as a result of illegal working
- Business premises can be closed for up to 48 hours
- Director disqualification
- Licence for alcohol/late-night refreshment revocation

For employees

- Working without permission puts them at risk of **removal** from the UK
- **Criminal offence** - custodial sentence of up to 51 weeks and/or fine
- Sponsored workers can have their **visas cancelled** if their sponsor's licence is revoked
- Seizure of earnings made as a result of illegal working
- Immigration raids cause disruption to business and other staff

2. Protecting your business from civil penalties

Protecting your business from civil penalties


- An employer can establish a “statutory excuse” by carrying out fully compliant right to work checks
- If a statutory excuse is established, this can protect the employer from a civil penalty even if the employee works without permission where:
 - the employee’s visa is cancelled before the end of its term
 - the employee provided a convincing forgery or evidence relating to someone else
 - EU citizen whose employment started on or before 31 July 2021 but didn’t obtain or lost pre-settled/settled status
- But the employer cannot rely on a statutory excuse if it *knows* the employee does not have the right to work

Key points for systems to establish/maintain statutory excuse

- Have a good **awareness** of each type of check and when they apply
- Refer regularly to **Home Office guidance**
- Compliant right to work checks must be carried out **before** employment starts without exceptions
- Right to work checks must be completed by the employer and **cannot be outsourced to third parties**
- Understand the importance of **recording and monitoring expiry dates**
- Carry out **follow-up** checks before permission expiry
- Understand when to contact the **Employer Checking Service (ECS)**
- Have **well-organised systems** to retain and retrieve full evidence of right to work (Home Office can request this at short notice)

3. How to carry out right to work checks

Three types of right to work check



Manual checks
(where permitted
under List A or
List B)

Online checks
(for non-
British/Irish
citizens)

Digital Verification
Service (only for
British and Irish
citizens)

How to carry out checks?

Manual checks

All steps must be done by the employer

1. Obtain the original physical document (per List A or B)
2. Check the document is genuine and allows the employee to work in the role that they will be doing
3. Carry out imposter check in person or by video call
4. Take a good clear copy
5. Record the date on which the check was done in a form that cannot be altered
6. Diarise for follow-up checks if required

Online checks

All steps must be done by the employer

1. Obtain a share code from the candidate or employee – valid for 90 days
2. Enter code and date of birth on the online check website
3. Carry out imposter check in person or by video call
4. Save the online profile page
5. Record the date on which the check was done in a form that cannot be altered
6. Diarise for follow-up checks if required

Digital Verification Service (optional)

1. Identity service provider will ask individual to upload a copy of document
2. Checks are carried out on authenticity of document and report shared with business
3. Employer must carry out imposter check in person or by video call
4. Save the DVS output
5. Record the date on which the check was done in a form that cannot be altered

Acceptable documents for manual checks (List A and List B)

Examples listed below from each list – for full lists, see [Home Office website](#) or [Brightmine resources](#)

List A

- Passport (British/Irish) – expired or current
- Current passport showing indefinite leave to remain (ILR)/right to abode/exemption stamp
- Current Immigration Status document showing ILR with NI number
- British/Irish birth or adoption certificate with NI number
- Naturalisation/registration certificates with NI number

List B (Group 1)

- Current passport with valid endorsement
- Current immigration status document with valid endorsement

List B (Group 2)

- Certificate of Application with Positive Verification Notice
- Application Registration Card with Positive Verification Notice
- Positive Verification Notice

Employer Checking Service (ECS)

Step 1

Check individual has a valid pending visa application or appeal submitted before expiry or deadline – obtain proof

Step 2

With individual's consent, submit their name, date of birth, nationality, job title, hours and home address via the ECS

Step 3

ECS should respond with Positive Verification Notice (PVN) or Negative Verification Notice (NVN) within 5–15 working days to confirm whether or not the individual has the right to work and conditions of work

Points to note:

- For existing employees with evidence of an in-time application before permission expiry, employer has 28 days from expiry date to obtain a PVN allowing employment
- 28-day grace period does not apply to candidates – PVN must be obtained before they are allowed to start work
- Conditions of work on PVN must be reviewed to ensure that the individual can work in the role for which they are hired
- ECS checks must be repeated every six months until the Home Office makes a decision on the application

POLL QUESTION

Are you confident that your right to work checks are compliant and that you have full records in place?

- A. Fully confident
- B. Somewhat confident but there may be gaps
- C. Not confident and I think we should carry out an internal audit!
- D. No idea

4. Pitfalls

International Students

- Student visa holders on a full-time course at degree level or above and sponsored by a higher education provider with a track record of compliance can work (subject to conditions stated on their visa):
 - part-time during term-time, ie no more than 20 hours a week
 - full-time during vacations and on work placements
- To maintain a statutory excuse, the employer must obtain and retain a university letter, email or printout from the university website to confirm term and vacation dates throughout the employment period
- Student visa holders can stay in the UK for between one and four months after the completion of their course (until their visa expires) during which they can work, subject to their visa conditions
- Student visa holders cannot work in a position that fills a full-time permanent vacancy (even with a “fixed-term” or “temporary” contract) unless they have a pending Skilled Worker or Graduate visa application
- Working in breach of these conditions exposes the employer to a civil penalty for illegal working

Supplementary employment conditions

- Skilled worker visa holders can undertake supplementary employment for an employer that is not their sponsor subject to specific conditions:
 - individual must continue to work for their current sponsor
 - the supplementary work must be skilled as follows:
 - RQF level 3–6 or above if their Skilled Worker visa was granted before 22 July 2025
 - RQF level 6 or above if their Skilled Worker visa was granted on or after 22 July 2025
 - the supplementary work must be no more than 20 hours per week
 - work must take place outside their contracted hours for their sponsored employment
- When hiring employees sponsored by another employer, it is essential to carry out checks to ensure the above conditions are met, eg contract, letter from sponsor or payslips to show continuous employment, and strictly monitor hours

Indefinite leave to remain (ILR)

- Can be stated in online check, on Biometric Residence Permit (if employment started before 4 April 2022) or endorsement/stamp in passport (unexpired at the time the check was done)
- If the check was acceptable at the date employment started, this provides a statutory excuse for duration of employment
- New hires with ILR in an expired passport or BRP must obtain online status (which can take time) before employment starts
- Problematic for existing employees if checks were not carried out on an acceptable document initially as employer won't have a statutory excuse (but employee may well still have ILR)

Asylum seekers

- Asylum seekers whose claim has been pending for more than 12 months through no fault of their own can apply for permission to work
- Employer must do Employer Checking Service (ECS) check to obtain a Positive Verification Notice (PVN) every six months and check any conditions
- Work is usually limited to roles in shortage in the UK
 - Claimants granted permission to work on or before 3 April 2024 are restricted to working in jobs on the Shortage Occupation List (SOL) – Application Registration Card (ARC) should state “work permitted shortage OCC”
 - Claimants granted permission to work on or after 4 April 2024 are restricted to working in jobs on Appendix: Immigration Salary List (ISL) - ARC should state “Permission to Work para 360”
- No provisions to work in roles under Temporary Shortage List introduced from 22 July 2025
- Some granted right to work in line with last conditions in the UK, eg if student visa, then restricted to 20 hours a week during term time (but no SOL or ISL restriction)

EEA nationals and non-EEA family members

- Retrospective checks for EEA nationals (and family members) employed on or before 30 June 2021 are not required and, if employer has a statutory excuse from original right to work check, it is protected from a civil penalty even if employee does not have pre-/settled status (as long as employer not aware)
- If employer is aware that a pre-30 June 2021 EEA employee does not have the right to work, it cannot rely on its statutory excuse
- What to do next:
 - take steps to terminate employment
 - suggest employee takes immigration advice – they may be able to apply for pre-/settled status
 - if application is made and employee presents Certificate of Application, can submit an online right to work check or Employer Checking Service (ECS) request
 - if results come back positive, business could re-employ whilst application is pending, but follow-up checks are required every six months

POLL QUESTION

Do you believe staff responsible for the checks at your organisation are equipped to deal with these trickier scenarios?

- A. Yes, they receive regular training and updates
- B. Maybe, they have experience of similar situations
- C. Probably not
- D. No, some training may be due

Key right to work pitfalls

Checks after
employment start
date or no record
of date when
checks were done

Checks done but
restrictions are
not checked and
work carried out
outside
permission

Documents
retained do not
meet
requirements, are
incomplete or
poor quality

Expiry dates are
incorrectly
recorded –
leading to missed
follow-up checks

Student visa
holder working in
full-time
permanent
vacancy or in
excess of part-
time hours

Key right to work pitfalls

ECS check
completed
outside 28-day
grace period and
NVN issued

Imposter checks
were not done or
not conducted
properly

Discrepancy in
employee names
and no additional
proof obtained

Follow-up checks
missed – gaps in
records for full
period of
employment

RTW checks
outsourced to
third party

5. Expansion of illegal working regime

Current position

Obligations to check only:

- staff employed under a contract of employment, service or apprenticeship, whether express or implied and whether oral or in writing
- “workers” only if sponsored

[Home Office Employer's guide to right to work checks:](#)

*“Even if the workers you use or supply **are not your employees** (within the meaning of Section 25(b) of the Immigration, Asylum and Nationality Act 2006), there are **compelling reasons why you should check** that any such workers have a right to work in the UK.*

...

*Accordingly, you are **strongly encouraged** to check that your contractors and labour providers carry out right to work checks in accordance with this guidance on people they employ, engage or supply (**or carry out these checks yourself**). This includes anyone in your supply chain using a substitute to perform work on their behalf.”*

Changes in the pipeline

- Subject to consultation, the Immigration, Asylum and Nationality Act 2006 will be extended to include anyone engaged by your business:
 - under a **worker's contract** to do or perform work or services personally for the business or on behalf of the business for a third party (excludes where the business is either a client or a customer of the worker's profession or business)
 - as an **individual sub-contractor**, e.g. to provide work or services under your business's contract with a third party where the individual sub-contractor is not a party to that contract
 - as an **individual service provider** whose details are provided by your business to your potential clients or customers as part of your **online matching service**
- Responsibility for checks and liability for a civil penalty is extended to engagers (not just employers), to service providers and to online matching services **even if they are not in a contractual relationship with the individual providing the work or services, or do not know that the individual is providing the work or services**
- More than one party can be held liable for the same instance of working without permission

What does this mean in practice?

- Changes expected to come into force in 2026/27 from which point checks will be required for most types of worker
- Businesses should:
 - engage in government consultation exercise when it is announced to shape final legislation and Home Office guidance
 - carry out internal right to work audits on their existing workforce
 - assess the nature of their contingent workforce to understand their additional obligations and liabilities
 - review and scale up onboarding processes as necessary
 - consider using additional technology including approved providers of Identity Document Validation Technology (IDVT)
 - ensure relevant recruitment, HR personnel and hiring managers have adequate support and training and are well versed in the new requirements

Any questions?



Thank you!

