

DOCUMENTS THAT EVIDENCE RIGHT TO WORK IN THE UK

Background

The Immigration Asylum and Nationality Act 2006, sections 15-25, place a requirement on the University to check that any employee who commences employment after 29 February 2008 has a right to live and work in the UK¹. Therefore **before any successful candidate commences work** the University must confirm their eligibility to live and work in the UK. To confirm eligibility candidates should be asked to provide certain original documents prior to their employment commencing.

Carrying out such checks gives the University a statutory defence if it is later discovered that a person does not have a legal right to work in the UK. Therefore, in order to safeguard our status as a sponsor and protect against possible civil penalties for employing illegal workers, these right to work document checks must be undertaken for all employees whether casual or open ended. **Failure to comply with these requirements will put the University at risk of civil penalties which include significant fines and the loss of our sponsorship licence, which in turn would prevent us from employing migrant workers and sponsoring overseas students.**

The following guidance details how to go about checking evidence of right to work and lists the acceptable documents that provide evidence of right to work in the UK and therefore ensure we have a statutory excuse under the legislation.

HOW TO CARRY OUT THE DOCUMENT CHECKS

The following 3 step document checking process should be followed for every person the University of Stirling offers employment to. **These checks must be completed prior to any employment commencing in order to provide a statutory excuse.**

STEP 1

Obtain original documents from the prospective employee from the approved documents specified on either List A **OR** List B.

STEP 2

¹ Workers employed between 27 January 1997 and 28 February 2008 are still covered by the 1996 Act.

The following are part of the EEA: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Liechtenstein, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom. Croatian's are currently subject to additional restrictions.

Take all reasonable steps to check that the documents are 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 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**
- 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 a photocopy, in black and white, of all the relevant pages of the document. In the case of a passport or other travel document, the following parts must be photocopied:

- 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 Government 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.

The copy should be signed and dated to verify you saw the original. The copy should then be attached to the candidate documents within Talentlink or forwarded to HRAdmin along with the appointment paper work.

LIST A – DOCUMENTS WHICH SHOW AN ONGOING RIGHT TO WORK

Any of the documents, or specified combination of documents, described in List A show that the holder has an ongoing right to work in the UK.

List A - Documents that show an on-going right to live and work in the UK	
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 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.
3	A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4	A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6	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.
7	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.
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 or adoptive parents, 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.
9	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.
10	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 – DOCUMENTS THAT SHOW A RIGHT TO WORK IN THE UK FOR A LIMITED PERIOD OF TIME.

Any of the documents, or specified combination of documents, in List B, show that a person is allowed to work in the UK for a limited period of time and remains subject to immigration control. HR will provide a monthly monitoring report to assist Schools and Service areas in highlighting when an individual’s right to work expires.

List B: Group 1 – Documents where a time limited statutory excuse lasts until the expiry date of leave.	
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 questions
2	A current Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3	A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4	A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.
List B: Group 2 – Documents where a time-limited statutory excuse lasts for 6 months	
1	A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006 to 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 together with a Positive Verification Notice² from the Home Office Employer Checking Service.
2	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.
3	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.

A PENDING APPLICATION FOR LEAVE TO REMAIN IN THE UK

If at the time of the checks the prospective employee has an application to extend their leave in the UK outstanding with the UKBA, this can verify by the HR & OD Department contacting the UKBA's employer checking service. If this requires to be done please contact hroperations@stir.ac.uk or ext 7779.

EMPLOYER CHECKING SERVICE

Where documents require to be verified by the UKBA Employer Checking service they should be passed to HR Service Centre team for processing.

This guidance is subject to any changes that may be made by the Home Office to Immigration Policy.

Any queries regarding the documents that provide evidence of right to work in the UK should be directed to hroperations@stir.ac.uk.