



UNIVERSITY OF ST ANDREWS
RIGHT TO WORK IN THE UK – GUIDANCE

1. OVERVIEW

The University is legally required under the provisions of the Immigration, Asylum and Nationality Act 2006 to verify, prior to the commencement of employment that any individual undertaking work for the University, regardless of duration and contractual status is eligible to work in the UK. Failure to adhere to this may lead to the University losing its licence to employ migrant workers and a civil penalty of up to £20,000 per illegal worker can be imposed.

If the University is unable to verify a person's right to work documents in advance of their first day of employment, even if they are able to demonstrate their eligibility to work in the UK; the University cannot backdate either the contract or the salary; we must amend the contract start date to correspond to the date on which the documents were verified.

By following the 3 step process below to complete the right to work check, the risk of employing a person without the right to work in the UK are minimised.

2. PROCESS FOR CHECKING

Step 1 - Obtain

You must obtain the original document as prescribed in the Home Office Right to Work Checklist (Appendix A)

Step 2 - Check

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

- Photographs and dates of birth are consistent across documents and with the person's appearance in order to detect impersonation;
- Expiry dates for permission to live and work in the UK have not passed;
- Any Immigration stamps, endorsements or work restrictions permit the employee to conduct the type of work being undertaken at the University;
- The documents are genuine, have not been tampered with and belong to the holder;
- The reasons for any different names across documents (e.g. original marriage certificate, divorce decree absolute, deed poll). Supporting documents should also be photocopied and retained.
- For **students** who have limited permission to work during term-times, they must also provide details of their academic terms and vacation times covering the duration of their period of study in the UK for which they will be employed. **Please see Section 4.2.**

Step 3 – Copy

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

You must also complete both pages of the Home Office Right to Work Checklist (Appendix A) in order to conduct a complete right to work check for an individual.

You must also retain a record of the date on which you made the check and verify each copy taken.

You must copy and retain:

- **Passports:** any page with the document expiry date, the holder's nationality, date of birth, signature, leave expiry date, biometric details, photograph and any page containing immigration information indicating the

holder has an entitlement to enter or remain in the UK and undertake the work in question. Please note a copy of the front cover of the passport no longer required.

- **All other documents:** the document in full, including both sides of a Biometric Residence Permit (if applicable).

3. AUTHORISED DOCUMENTATION FOR ELIGIBILITY CHECKS

Only the documents listed on the Home Office Right to Work Checklist (Appendix A) are permitted to be used by an individual undertaking work for the University to demonstrate their right to work in the UK. If an individual does not have any of the prescribed documentation or proof of their right to work in the UK, then they must not commence any work for the University.

Home Office Employer Checking Service

If there is a requirement for verification by the Home Office Employer Checking Service as detailed in the Home Office Right to Work Checklist then please the HR Immigration Team for processing on himmigration@st-andrews.ac.uk.

4. EMPLOYMENT OF SPECIFIC CATEGORIES OF WORKERS

4.1 Nationals from the European Economic Area (EEA)

EEA nationals have the right to live and work in the UK without any restriction but the checks outlined in 1 – 3 above must still be undertaken. EEA nationals who may work without restriction:

Austria	Belgium	Bulgaria	Croatia	Cyprus	Czech Republic
Denmark	Estonia	Finland	France	Germany	Greece
Hungary	Iceland	Ireland	Italy	Latvia	Liechtenstein
Lithuania	Luxembourg	Malta	Netherlands	Norway	Poland
Portugal	Romania	Slovakia	Slovenia	Spain	Sweden
United Kingdom					

Switzerland is not an EEA member but Swiss nationals have the same rights to live and work in the UK as other EEA nationals.

4.2 Students

Not all non-EEA students are entitled to work while they are in the UK. Where a student does have a limited right to work, the working hours that they may undertake will depend on **when** they applied for permission to come to or stay in the UK, **the type of course** they are studying and the **type of educational provider** with whom they are studying. Certain categories of employment are however, not permitted.

A migrant student who is permitted to work will have a clear endorsement in their passport or on their Biometric Residence Permit which states they are permitted to work and the number of hours of work permitted during the term time. Further details on the number of hours students can work can be found at the UKCISA website - <http://www.ukcisa.org.uk/Information--Advice/Working/How-many-hours-can-you-work>

If you are in doubt, please contact Human Resources.

If you are employing a student, you must adhere to the restricted term-time hours as noted on their visa. You must seek evidence to confirm the student's term and vacation dates as outlined below;

- I. A printout from the student's education institution's website or other material published by the institution setting out its timetable for the student's course of study; or
- II. A copy of a letter or email addressed to the student from their education institution confirming term time dates for the student's course; or
- III. A letter addressed to you as the employer from the education institution confirming term time dates for the student's course.

Student visitors are not permitted to work or conduct any business activities at the University either in the term time or the vacation or to do a work placement.

5. Exemptions

The requirement to verify an individual's right to work does not apply to the following categories of people –

- Anybody working entirely outside of the UK
- Anyone who is registered self-employed under HMRC rules
- Any agency staff working at the University through an agreement with an employment agency. The right to work check will be completed by the Agency.

6. QUERIES

If you have any questions, or require further information, please contact Cameron Little in Human Resources on extension 2497 or email himmigration@st-andrews.ac.uk.

Human Resources

July 2018



Name of person:	
Date of check:	
Type of check:	Initial check before employment <input type="checkbox"/> Follow-up check on an employee <input type="checkbox"/>

Step 1 Obtain

- You must **obtain original** documents from either **List A** or **List B** of acceptable 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 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 Registration Certificate or Document Certifying Permanent Residence issued by the Home Office, to a national of a European Economic Area country or Switzerland.
- A Permanent Residence Card issued by the Home Office, to the family member of a national of a European Economic Area country or Switzerland.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
- A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
- A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK or has no time limit on their stay in the UK, **together with** an official document giving the person's permanent National Insurance number and their name issued by a Government agency or a previous employer.
- A **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.
- 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.
- 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

- A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
- A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
- A **current** 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.
- 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

- 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 Notice** from the Home Office Employer Checking Service.
- 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.
- A **Positive Verification Notice** issued by the Home Office Employer Checking Service to the employer or prospective employer, which indicates that the named person may stay in the UK and is permitted to do the work in question.

Step 2 Check

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

1. Are photographs consistent across documents and with the person's appearance?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
2. Are dates of birth consistent across documents and with the person's appearance?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
3. Are expiry dates for time-limited permission to be in the UK in the future i.e. they have not passed (if applicable)?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
4. Have you checked work restrictions to determine if the person is able to work for you and do the type of work you are offering? (for students who have limited permission to work during term-times, you must also obtain, copy and retain details of their academic term and vacation times covering the duration of their period of study in the UK for which they will be employed)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
5. Are you satisfied the document is genuine, has not been tampered with and belongs to the holder?	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>
6. Have you checked the reasons for any different names across documents (e.g. marriage certificate, divorce decree, deed poll)? (Supporting documents should also be photocopied and a copy retained.)	Yes <input type="checkbox"/>	No <input type="checkbox"/>	N/A <input type="checkbox"/>

Step 3 Copy

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

- Passports:** any page with the document expiry date, nationality, date of birth, signature, leave expiry date, biometric details and photograph, and any page containing information indicating the holder has an entitlement to enter or remain in the UK and undertake the work in question.
- All other documents:** the document in full, both sides of a Biometric Residence Permit.

You must also record and retain the date on which the check was made.

Know the type of excuse you have

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

The documents that you have checked and copied are from:

- List A** You have a **continuous statutory 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: Group 1** You have a **time-limited statutory excuse** which expires when the person's permission to be in the UK expires. You should carry out a **follow-up check when the document evidencing their permission to work expires.**
- List B: Group 2** You have a **time-limited statutory excuse** which expires 6 months from the date specified in your Positive Verification Notice. **This means that you should carry out a follow-up check when this notice expires.**

Date follow-up check required: