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Guidance

## Coronavirus (COVID-19): right to work checks

Advice for employers carrying out right to work checks during the coronavirus pandemic.

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From:

Home Office (<https://www.gov.uk/government/organisations/home-office>) and Immigration Enforcement (<https://www.gov.uk/government/organisations/immigration-enforcement>)

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Right to work checks have been temporarily adjusted due to coronavirus (COVID-19). This is to make it easier for employers to carry them out.

As of 30 March 2020 the following temporary changes have been made:

- checks can now be carried out over video calls
- job applicants and existing workers can send scanned documents or a photo of documents for checks using email or a mobile app, rather than sending originals
- employers should use the Employer Checking Service (<https://www.gov.uk/employee-immigration-employment-status>) if a prospective or existing employee cannot provide any of the accepted documents

Checks continue to be necessary and you must continue to check the prescribed documents listed in right to work checks: an employer's guide (<https://www.gov.uk/government/collections/right-to-work-checks-employer-guidance>). It remains an offence to knowingly employ anyone who does not have the right to work in the UK.

Because of COVID-19, some individuals may be unable to evidence their right to work. During this period, you must take extra care to ensure no-one is discriminated against as a job applicant or employee because they are unable to show you their documents. For more information, please see the code of practice for employers: avoiding unlawful discrimination while preventing illegal working (<https://www.gov.uk/government/publications/right-to-work-checks-code-of-practice-on-avoiding-discrimination>).

### Conducting a right to work check during the temporary COVID-19 measures

- Ask the worker to submit a scanned copy or a photo of their original documents via email or using a mobile app
- Arrange a video call with the worker – ask them to hold up the original documents to the camera and check them against the digital copy of the documents
- Record the date you made the check and mark it as “adjusted check undertaken on [insert date] due to COVID-19”
- If the worker has a current Biometric Residence Permit or Biometric Residence Card or status under the EU Settlement Scheme you can use the online right to work checking service (<https://www.gov.uk/view-right-to-work>) while doing a video call - the applicant must give you permission to view their details (<https://www.gov.uk/prove-right-to-work>)

### **If the job applicant or existing worker cannot show their documents**

You must contact the Home Office Employer Checking Service (<https://www.gov.uk/employee-immigration-employment-status>). If the person has a right to work, the Employer Checking Service will send you a ‘Positive Verification Notice’. This provides you with a statutory excuse for 6 months from the date in the notice.

### **After the COVID-19 measures end**

We will let you know in advance when these measures will end. After that date, you should follow the checking process set out in right to work checks: an employer’s guide (<https://www.gov.uk/government/publications/right-to-work-checks-employers-guide>).

You will be asked to carry out retrospective checks on existing employees who:

- started working for you during these measures
- required a follow-up right to work check during these measures You should mark this check: “the individual’s contract commenced on [insert date]. The prescribed right to work check was undertaken on [insert date] due to COVID-19.”

The retrospective check must be carried out within 8 weeks of the COVID-19 measures ending. Both checks should be kept for your records.

The Home Office will not take any enforcement action against you if you carried out the adjusted check set out in this guidance, or a check via the Home Office, and follow this up with the retrospective check.

If, at the point of carrying out the retrospective check, you find your employee does not have permission to be in the UK you must end their employment.

If the check you have undertaken during the adjusted period was done in the prescribed manner, you do not need to undertake a retrospective check.

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### **Explore the topic**

- Foreign nationals working in the UK (<https://www.gov.uk/entering-staying-uk/Foreign-nationals-working-in-UK>)