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| Immigration Act 2016 – Right to work checks | TVBC logo (RGB) |

**All** applicants for the grant or renewal of a hackney carriage/private hire driver licence and private hire operator licence **must** produce evidence of their right to work in the UK.

This duty has been imposed on Test Valley Borough Council under the Immigration Act 2016 and will apply to all hackney carriage and private hire vehicle drivers and private hire operators regardless of how long they may have held their licence.

Your right to work in the UK will be checked as part of your licence application and this could include the licensing authority checking your immigration status with the Home Office. You must therefore either:

* provide a document that is stipulated as being suitable for this check. The list of documents is set out below (**List A** and **List B**) OR
* generate a Home Office online right to work share code from this web site <https://www.gov.uk/prove-right-to-work> OR
* use an Identity Service Provider (IDSP) to undertake a check using Identity Document Validation Technology.

If providing documents you must attend the Council Offices at Beech Hurst, Andover or the Former Magistrates Court, Romsey and provide the original document(s) so that the check can take place. The document(s) will be checked in your presence. The document(s) will be copied and the copy retained by the licensing authority. The original document will be returned to you.

Your application will not be considered valid until **all** the necessary information and original document(s) have been produced and the relevant fee has been paid.

If you produce a document from **List A** below, you will not be required to produce the document again at any subsequent renewal for the purposes of the Immigration Act 2016.

However, if there are restrictions on the length of time you may work in the UK, your licence will not be issued for any longer than this period. In such circumstances the check will be repeated each time you apply to renew or extend your licence.

Where a right to work check has been conducted using the online right to work checking service, the information is provided in real-time directly from Home Office systems and there is no requirement to check any of the documents listed below.

For checks against EEA (previously EU) citizens see the separate section below.

Since 6 April 2022, Biometric Residence Card (BRC), Biometric Residence Permit (BRP) and Frontier Worker Permit (FWP) holders are required to evidence their right to work using the Home Office online service only. The Council cannot accept physical cards for the purposes of a right to work check even if it shows a later expiry date. BRCs, BRPs and FWPs have been removed from the lists of acceptable documents used to conduct a manual right to work check.

Retrospective checks will not be required on biometric card holders who, before 6 April 2022, used their physical card to demonstrate their right to work. Employers will maintain a statutory excuse against a civil penalty if the initial checks were undertaken in line with the guidance that applied at the time the check was made.

# List A – if there are no restrictions on your right to work in the UK

***List A*** *contains the range of documents which must be produced if you have a permanent right to work in the UK. Once this check has taken place it will not need to be repeated when you subsequently apply to renew your licence.*

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 – if there are restrictions on your right to work in the UK

***List B*** *contains a range of documents which may be accepted for a person who has a temporary right to work in the UK. A licence may be issued (subject to any other statutory limitations) up to the expiry date of the permission to work. A further check of your immigration status will be required each time you apply to renew or extend your licence.*

## 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 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.

## Group 2 – Documents where a time-limited statutory excuse lasts for 6 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 (digital or 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.

## Annex: EEA citizens

The UK has left the European Union (EU) and the Immigration and Social Security Coordination (EU Withdrawal) Act 2020 ended free movement law in the UK on 31 December 2020. There followed a grace period of six-months during which relevant aspects of free movement law were saved to allow eligible EEA citizens and their family members resident in the UK by 31 December 2020 to apply to the EUSS. This period ended on 30 June 2021.

**Right to work checks for EEA citizens from 1 July 2021**

Since 1 July 2021, EEA citizens and their family members are required to have immigration status in the UK. They can no longer rely on an EEA passport or national identity card, which only confirms their nationality, to prove their right to work. They are required to provide evidence of lawful immigration status in the UK, in the same way as other foreign nationals. There is no requirement for a retrospective check to be undertaken on EEA citizens who entered employment up to and including 30 June 2021.

**Irish citizens**

Irish citizens continue to have unrestricted access to work in the UK. They can prove their right to work using their Irish passport or Irish passport card (in either case, whether current or expired), or their Irish birth or adoption certificate 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.

Irish citizens can also apply for a frontier worker permit, this permit can be issued digitally or as a physical permit, so they can prove their right to work using the Home Office online right to work service.

**How EEA citizens are required to prove their right to work**

**EEA citizens granted status under the EU Settlement Scheme (EUSS)**

Most EEA citizens now prove their right to work using the Home Office online services.

If an EEA citizen has been granted ‘Settled Status’ by the Home Office, they will have a continuous right to work.

If an EEA citizen has been granted ‘Pre-Settled Status’ by the Home Office, they will have a time-limited right to work, and the Council must carry out a follow-up check. The Home Office online service will advise when a follow-up check must be carried out.

**Frontier workers**

A ‘Frontier Worker’ is an EEA citizen who is resident outside the UK but is economically active (employed or self-employed) in the UK. They have rights under the Withdrawal Agreement, the EEA European Free Trade Association (EFTA) Separation Agreement and the Swiss Citizens’ Rights Agreement (‘the agreements’) to enter the UK and work for as long as they remain a frontier worker.

Since 1 July 2021, it is mandatory for frontier workers to obtain a frontier worker permit as evidence of their right to enter the UK.

Whilst the frontier worker permit requires an individual to reside outside the UK, their work in the UK can be spread over the entire year(s). Therefore, they may make multiple trips to the UK and they are lawfully present in the UK. Frontier workers are issued with a frontier worker permit either digitally or physically.

**Additional information**

Whilst it is mandatory for protected frontier workers to hold a frontier worker permit to enter the UK on this basis from 1 July 2021, there is no mandatory requirement for protected frontier workers who have rights under the Agreements to use a frontier worker permit to evidence their rights in the UK.

Consequently, it is open to any EEA or Swiss citizen who has an enforceable Citizens’ Rights Agreement right as a frontier worker to work in the UK, to demonstrate the existence of that right in a different way than using the online service. To obtain a statutory excuse against liability for a civil penalty in such cases, the Council must request a right to work check from the Employer Checking Service (ECS).

The Council must have obtained copies of the employee’s documents which evidence that they were exercising rights as a Frontier Worker on or before 31 December 202o.

Before providing the Council with a response, the ECS may contact us and ask us to send them a copy of the documents we have checked. The ECS will confirm if the individual has the right to work, and when we need to carry out a follow up check. Where the ECS can issue a Positive Verification Notice in the absence of a Frontier Worker Permit, we will be required to carry out a further ECS check in six months.

**Alternative Evidence:**

* evidence of the applicant’s own identity and that they are an EEA citizen – such as a passport or national identity card
* evidence they are primarily resident outside of the UK, such as utility bills or bank statements which include proof of address outside the UK
* evidence they worked in the UK as an employed or self-employed person during

2020, or had retained worker or self-employed status during 2020 (see below)

* evidence they have continued to be employed or self-employed in the UK or have retained worker or self-employed person status
* a signed and dated contract specifying the employee must work in the UK
* letters from employers confirming the need for the employee to travel to the UK for the purpose of work and outlining the frequency of this travel
* tax returns from HMRC showing the person is established as self-employed in the UK
* bank statements or invoices which show payments for work carried out in the UK.

**Retained frontier worker status:**

A protected frontier worker who has (or had) temporarily stopped working can still be treated as a worker under regulation 4 of The Citizens’ Rights (Frontier Workers) (EU Exit) Regulations 2000 if they can provide proof that they:

• are (or were) temporarily unable to work because of illness or an accident

• are (or were) in duly recorded involuntary unemployment

• are (or were) involuntarily unemployed and have embarked on vocational training

• voluntarily stopped working to start vocational training related to their previous work

• are (or were) temporarily unable to work following pregnancy or childbirth.

Guidance on what is considered sufficient evidence for retaining frontier worker status can be found in the frontier worker permit case working guidance.

**Service Provider from Switzerland**

A ‘Service Provider from Switzerland’ (SPS) is an individual of any nationality who is required by their employer (who must be based in Switzerland) to execute a pre-existing contract to temporarily provide services for a party in the UK. Eligible companies have rights under the Swiss Citizens’ Rights Agreement to enable employees, or individuals (if self-employed) to travel to the UK to provide services for up to 90 days per year. An SPS must obtain their visa in advance of travel.

The UK company and the Swiss company providing the services must have had a pre-existing contract to deliver services before 31 December 2021. A Service Provider from Switzerland visa is a hard copy document without an online checking function. The visa will be in the form of a vignette and will identify the individual as a ‘Service Provider from Switzerland’, and can be issued in two ways:

• (All nationalities) within a passport

• (Swiss citizens only) on an official form (“Form for Affixing a Visa”) - If the individual is a Swiss citizen, they can choose to apply to the immigration route using their Swiss identity card. In this circumstance, the vignette will be attached to an official Home Office form.

The Council is not required to carry out a right to work check on an individual with a Service Provider from Switzerland visa, as they are not in our employment. We may, however, be asked to provide sight or a copy of the contract held with the Swiss company the visa holder is carrying out work or services for.

The Service Provider from Switzerland visa specifies that an individual is only permitted to work in the UK for 90 days per calendar year, the 90 days’ work can be spread over the entire year. The visa allows the individual to make multiple trips to the UK until the visa expires.

### **Outstanding UK EU Settlement Scheme applications**

EEA citizens, and their family members, who have made a valid application to the EUSS can continue to live their life in the UK and maintain a right to work until their application is finally determined. This includes pending the outcome of any appeal against a decision to refuse status.

**Receipt of application submitted to the EU Settlement Scheme**

There are a small number of individuals who made their EUSS application using a paper application. Due to the postage and processing time related to paper application, we may be required to undertake a check before the individual receives their Certificate of Application. Where an individual has made an application on or before 30 June 2021, they will be provided with a letter or email notification acknowledging receipt of the EUSS application. We must request a right to work check from the Employer Checking Service to verify this document.

**Certificate of Application**

Where an individual has been issued with a Certificate of Application (CoA), we must first check whether this is a ‘digital’ or ‘non-digital’ CoA. A CoA is evidence that an individual has made a valid application to the EUSS and should be used to evidence their right to work until such time their application is finally determined.

**Digital Certificate of Application**

Most individuals with an outstanding valid application made to the EUSS on or before 30 June 2021 have been issued with a digital CoA. In this instance, we will check with the individual and ask them to provide a share code. This means we can check their right to work immediately via the online service and do not need to contact the ECS. The online service will provide confirmation of their right to work and advise when a follow-up check is required.

Where the individual has a digital CoA to evidence an application made on or after 1 July 2021, the online service will direct us to verify this via the ECS. We must do this in order to obtain a positive verification notice in these circumstances.

**Non-digital Certificate of Application**

A ‘non-digital’ CoA is an email or letter, sent to the individual, advising them how prospective employers can request information about their right to work from the Employer Checking Service (ECS). Where a prospective employee provides us with a ‘non-digital’ CoA as evidence of an application made to the EUSS on or after 1 July 2021, we must make a copy of this document and retain this copy, together with a Positive Verification Notice (PVN) from the ECS.

Should we be provided with a non-digital CoA dated on or before 30 June 2021 we will ask the prospective applicant to check if they have also been issued with a digital CoA. If they have, they should provide a share code to verify their right to work via the online service instead. If they have not been issued a digital version, we will need to contact the ECS.

### **EU Settlement Scheme status granted by a Crown Dependency**

The Crown Dependencies (the Bailiwick of Jersey, the Bailiwick of Guernsey, and the Isle of Man) each operate their own EU Settlement Scheme (EUSS) for those eligible to apply. The UK and the Crown Dependencies recognise status granted under each other’s Scheme, so an individual granted settled or pre-settled status by a Crown Dependency will be considered to have settled or pre-settled status in the UK.

The Isle of Man and Guernsey issue a letter to those granted EUSS status. Jersey issues a letter and operates an immigration status checker service for individuals to obtain confirmation of their status at any point.

When presented with a letter or email confirmation of EUSS leave from a Crown Dependency, we must request a right to work check from the ECS. We must keep a copy of the Crown Dependency letter or email and retain this with the response from the ECS to have a statutory excuse against liability for a civil penalty.

**Outstanding EU Settlement Scheme applications in a Crown Dependency**

Where an individual has an outstanding application to the EU Settlement Scheme (EUSS) of the Crown Dependencies of the Bailiwick of Jersey, the Bailiwick of Guernsey, or the Isle of Man, they will have a letter or email notification confirming their outstanding application. We must request a right to work check from the ECS. We must retain a copy of the letter or email notification with the response from the ECS.

**EEA citizens with Indefinite Leave to Enter or Remain**

EEA citizens with Indefinite Leave to Enter or Remain (ILE/R) or Settlement are not required to make an application to the EUSS but can do so if they wish.

Since 1 July 2021, EEA citizens with ILE/R are required to prove their right to work in the same way as other foreign nationals who do not have a digital status. We can carry out a manual check of their Home Office documentation such as an endorsement / vignette in a current passport stating, ‘Settlement’, ‘Indefinite Leave to Enter or Remain’ or ‘No Time Limit’. Some may have a current Biometric Residence Permit (BRP) and this can be used to access the online right to work service.

**Points-Based Immigration System**

Since 1 January 2021, EEA citizens who come to the UK to live, work or study need to obtain immigration status under the points-based system in the same way as other foreign nationals. Most EEA citizens will be provided with an eVisa however, this will be dependent upon the immigration route and how they made their application. Some EEA citizens will have a Biometric Residence Permit (BRP). Those with a valid BRP must use the online right to work service.

Individuals will provide a share code and their date of birth which will enable us to check their Home Office immigration status via the online service, ‘View a job applicant’s right to work’ available on GOV.UK.

**FOR OFFICE USE ONLY (to be completed by CSU Advisor/Lic. Officer)**

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| Name of applicant | |  |
| Date of check | |  |
| New or renewal? | | NEW / RENEWAL (circle as appropriate) |
|  | | |
| Check the document(s) | * Are photographs consistent across documents and with the person’s appearance? * Are dates of birth consistent across documents and with the person’s appearance? * Are any expiry dates for time-limited permission to be in the UK in the future i.e. they have not passed (if applicable)? * Are you satisfied the document is genuine, has not been tampered with and belongs to the holder? * Have you checked the reasons for any different names across the documents (e.g. marriage certificate, divorce decree, deed poll)? Supporting documents should also be copied and a copy retained. | |
|  | | |
| Copy the document(s) | You must make a clear copy of each document in a format which cannot later be altered. 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 including both sides of an Immigration Status Document. | |
| **IF APPLICANT HAS 9 DIGIT RTW SHARE CODE ENTER IT BELOW** | | |
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| **Signature** |  | Date | d | d | m | m | y | y |

This form and the copied documents must now be passed to the Licensing Section