

Questions for immigration lawyers: right to work checks and illegal working

by Practical Law Employment

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A collection of immigration lawyers' answers to our questions on right to work checks and illegal working issues.

Can an employer rely on a certificate of application which is more than six months old as evidence of an employee's right to work?

by Samar Shams, Changes Immigration

A certificate of application is valid until the applicant receives a decision on their application. The employer should check the Certificate of Application according to the Home Office's right to work checks guidance ([UKVI: Right to work checks: an employer's guide](#)).

The employer should contact the Home Office Employer Checking Service to obtain a Positive Verification Notice, which the employer should retain with the copy of the certificate of application ([UKVI: Use the Employer Checking Service](#)). The employer will benefit from a statutory excuse for six months from the date of the Positive Verification Notice.

Are there any immigration restrictions on work placements for international students in the UK?

by Samar Shams, Changes Immigration

Yes. Where a student is sponsored by a Higher Education Institution (HEI) at degree level or above, a work placement must not be more than half of the total length of the course. This includes where a student is sponsored by an overseas HEI to undertake a short-term study abroad programme in the UK.

A work placement undertaken by a child student aged 16 or above also must not be more than half the length of the course.

For other student visa holders, work placements are restricted to no more than one third of the total length of the course undertaken in the UK.

Can a student who completes their studies early work full-time in the UK?

by Samar Shams, Changes Immigration

If a student informs their employer that they have completed their studies early, the employer should seek confirmation from the education sponsor that the student has completed their course before employing them full-time.

Employers should be aware that the education sponsor is also required to inform the Home Office if a student finishes their course early. The Home Office may then curtail (shorten) the student's leave in this situation and so the employer should require the employee to provide documentation of any curtailment letter they receive from the Home Office.

An employer can also verify how long the student is permitted to work in the UK by checking their right to work status online. The student can obtain a "share code", at [GOV.UK: Prove your right to work to an employer](#), that the employer then enters, together with the student's date of birth at [GOV.UK: View a job applicant's right to work details](#).

Students must generally have completed the course of study for which they were sponsored, in order to be

eligible to apply to “switch” into the “Skilled Worker” route (sponsored by their employer), with the following exceptions:

- Students on full-time courses at degree level are eligible to apply within 3 months of their course completion date; the work start date must be after the course completion date.
- PhD students are eligible to switch after 2 years or more of study.

How can an employer conduct a right to work check if the migrant’s documents are with the Home Office?

by [Samar Shams](#), Changes Immigration

If an employee’s documents are with the Home Office due to an outstanding application, review or appeal, an employer can use the [Employer Checking Service](#) to request verification of the employee’s immigration status and right to work.

The employer will need the employee’s permission to make the check. Permission can be given orally but it is best to obtain it in writing. To complete the relevant form, the employer will need to provide basic information about the business. The employer will also need the employee’s full name, date of birth, nationality, job title, weekly hours, home address and Home Office reference number or case ID.

Can international students work while they study in the UK?

by [Samar Shams](#), Changes Immigration

Some, but not all, international students are permitted to work while they study in the UK.

An employer can verify a student’s work in the UK by checking their right to work status online. The student can obtain a “share code”, at [GOV.UK: Prove your right to work to an employer](#), that the employer then enters, together with the student’s date of birth at [GOV.UK: View a job applicant’s right to work details](#).

The online right to work check will state whether they are permitted to work and how many hours they are permitted to work during term time.

Where a student’s online right to work check states that they are permitted to work, an employer must obtain and retain evidence of the student’s academic term and vacation dates in one of the following formats:

- A printout or other publication from the education institution’s website setting out the timetable for the student’s course of study.
- A letter from the education institution, addressed to the student or the employer and confirming term time dates for the student’s course.

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