

# Right To Rent - What Is It And What Landlords Should Know!





The Right to Rent scheme in the UK requires landlords and letting agents to verify that prospective tenants have the legal right to reside in the country.

This involves checking original documents, such as passports or visas, and keeping copies for records. Post-Brexit, EU, EEA, and Swiss citizens must now prove their right to rent through the EU Settlement Scheme or other statuses.

Non-compliance can lead to significant fines or criminal charges for landlords, highlighting the need for careful tenant vetting.

This guide takes you through what you need to know



# What is Right-to-Rent?

Right to Rent is a set of rules which requires landlords to check that all occupiers over the age of 18 in their rental property are legally allowed to rent in the UK.

It was introduced in England by the Government as part of The Immigration Act 2014 to clamp down on illegal migrants.

It applies to all landlords and their tenancies from and including 1st February 2016.

The process of a right-to-rent check involves the landlord establishing what is known as a statutory excuse against civil penalty

Provided the checks are conducted correctly and the relevant evidence obtained and retained securely, a continuous statutory excuse will be established



# Am I A Landlord & Does This Apply To Me?

According to the government a landlord is someone who, "lets accommodation for use by one or more adults as their only or main home'.

If you act on behalf of a landlord, sublet or even take in lodgers, this applies to you.

If you use a letting agent, Right to Rent checks will be their responsibility but it must be agreed upon in writing otherwise you could still be liable.



# Who Should I Check?



It is important to check any occupier of the property that is over the age of 18, whether they are on the tenancy agreement or not.

It is important to consider regular inspections to try and ensure that any additional occupiers are accounted for. Permitted occupier agreements are a great way to keep track of everyone living in a property.

It is also important that you do not assume the nationality of someone. All tenants and occupiers, regardless of any physical characteristics, must be checked equally to avoid any discrimination.



# Who Has The Right To Rent?

Occupiers can fall into one of three different status categories when it comes to right-to-rent checks:

- Unlimited Right to Rent
- Time Limited Right to Rent
- No Right to Rent

## Unlimited Right to Rent

This category is for people who have proven that they are allowed to rent in the UK for an indefinite period of time. Anyone in this category will not be required to have any follow up checks. It usually applies to:

- British/Irish Citizens
- People who have the right of abode in the UK
- People who have been granted an indefinite leave to remain or have no time limited on their stay
- Those with settled status via the Post-Brexit settlement scheme



## Time Limited Right-to-Rent

This category is for people who have proven that they are allowed to rent in the UK but have a time limit on their stay. Anyone in this category will require follow up checks at the expiry of their stay or 12 months, whichever is longer.

It generally applies to people who do not fall into any of the above categories.

The length of their stay will depend on their reasons for entering the country, this could be for study, work or asylum to name a few.

Each situation is unique and will have different reasons behind them and varying rules apply for special situations such as the Windrush generation or refugees of the Ukrainian war.

## No Right-to-Rent

All occupiers must prove their right-to-right prior to starting a tenancy. If they are unable to prove their right-to-rent they will be deemed as having no right-to-rent and a landlord would be at risk of civil penalty if they chose to let a property to them.

In the event an occupier can not provide sufficient evidence for a follow up check once a tenancy has started then they will have no right-to-rent and a report must be made to the Home Office



# Do I have to make a retrospective check?

If you rent a property to EU, EEA nationals and Swiss nationals you do not need to make a retrospective check if your tenants entered into a tenancy agreement on or before 30th June 2021.

This is provided you carried out a valid right-to-rent check based on the rules at the time i.e. a certified copy of an EU passport or National ID card

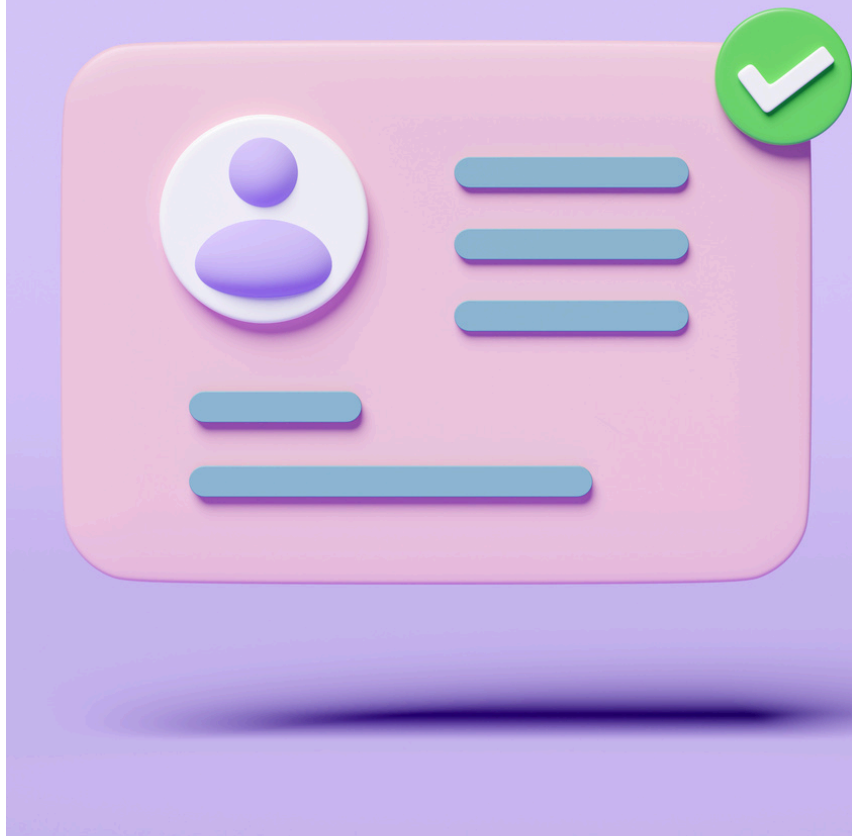
If a known tenant from one of these countries moves to another of your properties, you must carry out a new check when a new tenancy agreement is created using the new sharecode system. This also applies to a new tenancy being created for their current property if one tenant moves out.



## How Do I Check?

The most efficient and accurate way to carry out right-to-rent checks is using an online digital service:

British or Irish Citizens with a Passport can use government approved IDVT which can digitally certify their passport along with their biometrics via a selfie photograph. Once validated, this provides an unlimited right-to-rent and the report must be retained securely in hard copy or digitally.



Occupiers from other regions can use the online sharecode system whereby they can use their UKVI account, set up using visas, BRP cards and other immigration documents to provide you with a sharecode via the government service.

You will then run their sharecode alongside their date of birth and be presented with a profile page outlining the individual's right-to-rent and whether they have an unlimited or time limited right to rent - you must confirm that the person presented is the person you are letting the property to and retain a copy of the profile page.

In the event the occupier is going through the application process, they can provide you with their application number which can be run on the Landlord Checking Service

As an alternative, you are permitted to carry out manual right-to-rent checks using physical documents. This primarily applies to British or Irish citizens but in some cases, time-limited right to rent can be proven through physical documents.

There are 3 important lists that apply to manual checks:

## List A - Group 1 - Unlimited Right to Rent - 1 Document Required

- A passport (current/expired) showing holder is a British/Irish Citizen or a citizen of the UK and Colonies having the right of abode in the UK
- 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 Landlord Checking Service, showing that the holder has been granted unlimited leave to enter or remain
- A passport or other travel document endorsed to show that the holder is exempt from immigration control or is allowed to stay indefinitely in the UK
- An immigration status document (current or expired) containing a photograph issued by the Home Office to the holder with an endorsement indicating that the person named in it is allowed to stay in the UK indefinitely or has no time limit on their stay in the UK
- A certificate of registration or naturalisation as a British citizen.

## List A - Group 2 - Unlimited Right to Rent - 2 Documents Required

- A birth or adoption certificate issue in the UK (long or short)
- A birth or adoption certificate issued in the Channel Islands, Isle of Man or Ireland
- A signed letter issued by a government department or L.A. issued within the preceding three confirming the holders name and that the holder is known to them or accessed services
- A signed letter issued by a British passport holder who is/has been a professional person or is of good standing in their community, confirming the holders name, time they have know the holder (at least 3 months) and the capacity. Signatory's full details must be on there
- A letter issued by the holder's employer from within the past 3 months
- A letter from the police stating the holder's List A group 1 document has been stolen within the last 3 months
- An identity card or document from HM forces or secretary of state confirming the holder is or has been a serving member
- A letter issued by HMP Services, SPS or NIP Service confirming the holder was released from custody within the last 6 months
- A letter issued within the last 3 months by the National Offender Management Service or devolved government service confirming the holder is requires supervision
- A current driving licence
- A DBS certificate issued within the last 3 months
- A document or screenshot issued within the last 3 months by HMRC, DWP or NI department from social development confirming the holder is in receipt of a benefit
- A letter issued in the last 3 months by a public authority or charity helping homelessness
- A letter from a further or higher education institution in the UK confirming the holder has been accepted on a current course with the institution

## List B - Time Limited Right to Rent - 1 Document Required

- A current passport or travel document endorsed to show the holder is allowed to stay in the UK for a time limited period e.g. a vignette or wet stamp
- A current immigration status document issued by the Home Office to the holder, with a valid endorsement indicating that the holder has been granted limited leave to enter or remain
- A document issued by the Bailiwick of Jersey, or the Bailiwick of Guernsey or the Isle of Man, which has been verified as valid by the Landlord 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.
- A document issued by the Bailiwick of Jersey, the Bailiwick of Guernsey, or Isle of Man, showing that the holder has made an application for limited leave Page 67 of 96 to enter or remain under Appendix EU(J) to the Jersey Immigration Rules or Appendix EU to the Immigration (Bailiwick of Guernsey) Rules 2008 or Appendix EU to the Isle of Man Immigration Rules (as the case may be), together with a Positive Right to Rent Notice issued by the Home Office Landlord Checking Service.
- A document issued by the Home Office, confirming an application for leave to enter or remain, under Appendix EU to the immigration rules (known as the EU Settlement Scheme), made on or before 30 June 2021 together with a Positive Right to Rent Notice issued by the Home Office Landlord Checking Service.
- A Certificate of Application (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 Right to Rent Notice issued by the Home Office Landlord Checking Service.
- A passport of a national of an EEA country, Australia, Canada, Japan, New Zealand, Singapore, South Korea or the USA who is a visitor to the UK together with evidence of travel to the UK that provides documentary evidence of the date of arrival in the UK in the preceding six months.

**Manual checks using the documents above must be done in person, with the holder of each document present.**

- **You should check the document to reasonably ascertain if it is genuine and if it is a true likeness of the holder if a photo is present.**
- **A clear copy of both sides (or photo page in passport) should be made and certified by writing 'the date on which this right to rent check was made [insert date]' on each copied document and sign your name.**
- **A digital or hardcopy of each check should be stored securely.**



And that's it. We hope this guide will help clear up some of the processes surrounding right-to-rent. This legislation is constantly changing and there are many individual and unusual circumstances that come up and this guide just scratches the surface on the basics. Scan the QR code below to be taken straight to the government guidance on this topic.

If you would like to discuss renting out your home, or buying a property to let, simply give our Lettings Manager, Josh, a call on 01524 843322. We're here to answer any questions you may have about the lettings process.



[www.jdg.co.uk](http://www.jdg.co.uk)



[josh@jdg.co.uk](mailto:josh@jdg.co.uk)



01524 843322



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