

Right To Rent – Tenant checklist

From **1st February 2016**, a landlord should not authorise a new tenancy or licence if the tenant or any other adult occupier does not have a **'Right To Rent'** in England. Tenants and other occupiers need to be aware of their rights and have relevant documentation at hand.

Do I, and other adults in my household, have a Right to Rent?

Under the Immigration Act 2014, people will fall into three broad categories depending on their immigration status.

- The majority of people will have an unlimited right to rent.
- Others will have a time-limited right to rent.
- Some will have no right to rent.

1. Unlimited right to rent

The greater majority of people in England will have an automatic RTR if they can provide a valid document confirming that they are a:

- British or Commonwealth citizen with a 'right of abode' in the UK
- European Economic Area (EEA) or Swiss national
- Person with indefinite leave to enter or remain in the UK
- Person with a permanent right to reside in the UK under European law
- Person for whom the Secretary of State has granted permission to rent in the UK, even though their immigration status would otherwise leave them with no right to rent.

2. Time-limited right to rent

Some people will have a time-limited right to rent if they can provide valid documents that show that they either:

- Have a right to reside as non-EEA family members of EEA nationals exercising Treaty rights, or are 'Zambrano carers', or
- Have been granted leave to enter or remain only for a limited period under humanitarian protection, discretionary leave to remain, or under student/work/family visas.
- The Secretary of State may also grant someone permission to rent in the UK, even though their immigration status would otherwise leave them with no right to rent - this may be time limited.

3. No right to rent

Some people will be barred from occupying premises held under a residential tenancy/licence on which rent is payable if:

- They require but do not have leave to enter or remain in the UK
- Their leave to remain is subject to a condition that prohibits them from occupying residential premises
- Their time-limited Right to Rent has ended.

What documents do I need to show to landlords and/or letting agents?

Please see [Home Office No Right to Rent Guidance](#) to confirm acceptable documents for Lists A & B.

What if I do not have my documents at hand?

If you do not have the relevant documents with you at the time of applying for accommodation with a landlord or letting agent, the landlord/agent is likely to decline making an offer of a tenancy until you provide adequate documents from the list above.

If you cannot provide the landlord with any of the documents from List A or List B, but you have:

- An ongoing immigration application or appeal with the Home Office, or
- Your documents are with the Home Office, or
- You have been given permission to rent by the Home Office,

Then the landlord/agent must request verification of a right to rent from the **Home Office's Landlords Checking Service** using an online form or by telephone. The Landlords Checking Service will respond to the landlord with a clear "yes" or "no" response within 2 working days.

In order for the landlord to seek verification from the Home Office, you must provide the landlord with a Home Office reference number. This can be an application or appeal number, application registration card (ARC) number, certificate of application number issued to a family member of a national of an EEA country or Switzerland, case number, etc. The landlord will need to include this information when requesting a right to rent check, to receive the "yes" or "no" response.

What happens if I, or another occupier in my household, has a time-limited Right to Rent?

If the occupier produces a document in List B and the landlord obtains and retains copies of these documents, this should be satisfactory for either 12 months, or until expiry of the person's leave to remain in the UK, or until expiry of the validity of the document which evidences their right to be in the UK, whichever is later. In such cases, the landlord will need to conduct further follow-up checks before the end of the time limit. If the occupier has gained an unlimited right to rent since the time of the initial checks, production of a document from List A will mean no further follow up checks are required. Please be aware that if the occupier cannot produce a document evidencing their right to be in the UK at the time of the follow-up checks, the landlord must make a report to the Home Office as detailed below, or the landlord will risk a penalty fine.

If the occupier cannot produce any documents, but claims to have an ongoing application or appeal with the Home Office to vary or extend their leave in the UK, or that their documents are with the Home Office, the landlord must request a right to rent check from the **Landlords Checking Service**.

If the Landlords Checking Service inform the landlord at the time of the follow up check, that the occupier no longer has a right to rent, the landlord must make a report to the Home Office in order to avoid a penalty fine.

The landlord is not required to take any steps to remove the occupier through possession action if the checks reveal that a sitting occupier no longer has a right to rent. However, the landlord may choose to terminate the tenancy or licence, although they must do this lawfully according to the housing status of the occupier.

The landlord is very likely to take action to maintain an excuse against a penalty by making the appropriate report to the Home Office.

The landlord must make the report as soon as reasonably practicable after discovering that the occupier no longer has a right to rent.

This report must be made in writing (by post or email), and contain all of the following:

- The full name of the occupier believed to have no right to rent;
- The address of the premises they are occupying;
- The name and contact address of the landlord;
- Where relevant, the name and contact address of the agent;
- The date on which the occupier first took up occupation; and
- Copies of the documents kept by the landlord when undertaking the initial right to rent checks in respect of the occupier.

What can I do if I feel that a landlord is discriminating against me when I do have the Right to Rent?

It is important to note that a landlord or agent has a great freedom to choose potential tenants and licensees for the accommodation they rent out. However, it is unlawful, under the **Equality Act 2010**, for a landlord or agent to discriminate against a prospective tenant or occupier on the protected characteristic of race, which incorporates colour, nationality, and ethnic or national origins.

Any landlord or agent who refuses to let property to a person on the basis that they believe that the person is not a British citizen, without doing full RTR checks, could leave themselves open to a claim of **direct discrimination**.

Any landlord or agent who only undertakes document RTR checks on persons they believe is not a British citizen will also risk a direct discrimination claim. A direct discrimination claim can lead to a claim for damages in the court, and can damage the reputation of a landlord or agent. For this reason, landlords and agents are expected to undertake RTR checks on every applicant (and their household occupiers).

If a landlord or agent has a criterion of not letting accommodation to anyone who has not been living in the UK for a set period of time – for instance, five years – that condition could leave the landlord/agent open to a claim of **indirect discrimination**, as this would be likely to put migrants at a particular disadvantage when compared with British citizens, unless the landlord/agent could show that the practise is a proportionate means of achieving a legitimate aim.

If you think that a landlord or agent has discriminated against you, please seek further advice from the Citizens Advice on your rights under the Equality Act 2010.

What can I do if a household member does not have the Right to Rent?

If you or another occupier within the household over the age of 18 does not have a Right To Rent, you are likely to be unable to access the private rented sector in England. The Right To Rent restrictions do not yet apply in Scotland or Wales. There are some other exclusions to the Right to Rent regulations in England. The following housing options do not require Right To Rent checks:

1. Accommodation involving local authorities

This is essentially housing provided by the local authority under the homelessness duties within Part 7 HA 1996, including where the occupier is to be placed into private rented property by the local authority. Please note that the applicant for the homelessness duty has to have satisfactory immigration status to be eligible for the duty. It also includes accommodation provided under the Children Act 1989 and the Care Act 2014.

2. Social housing

This is housing provided under Part 6 HA1996 (known as allocations or the waiting list) and included transfers and exchanges by current tenants of social housing. The tenant has to have satisfactory immigration status to be eligible for social housing.

3. Care homes, hospitals and hospices and continuing healthcare provision

Care homes, hospitals and hospices are exempt, as is accommodation arranged by relevant National Health Service bodies under a statutory duty owed towards individuals as part of a package of continuing health care.

4. Hostels and refuges

This exemption applies to hostels and refuges which are managed by social landlords, voluntary organisations or charities, or which are not operated on a commercial basis.

5. Mobile homes

Agreements to which the Mobile Home Acts 1983 applies, where a person is entitled to station their own mobile home on a site and use it as their only or main home. However, renting a mobile home will be subject to the RTR checks.

6. Tied accommodation

A residential tenancy agreement that grants a right of occupation in accommodation provided by an employer to an employee, or by a body providing training to an individual in connection with that training. Please note that anyone working in the UK will need to have satisfactory immigration status.

7. Student accommodation

Halls of residence (whether the landlord is an educational institution or private accommodation where the student is nominated to the landlord by the educational institution) are exempt, as is any accommodation provided for students directly by a higher or further educational institution.

8. Long leases

Leases which grant a right of occupation for a term of 7 years or more are exempt, but not if the agreement can be terminated at the option of a party – i.e. via a break clause - before the end of 7 years from the start of the term.

