

1. Introduction

The Immigration Act 2014 requires landlords to carry out a right to rent check on all tenants aged 18 or over to ensure they are legally entitled to rent property in the UK.

It is a criminal offence for a landlord (or tenant taking in a lodger), to let a property to a tenant who is not legally entitled to rent in the UK. These checks must be carried out on all tenants aged 18 or over to ensure they are legally entitled to rent property in the UK.

2. The code of practice

Penalty fines

2.1 The Immigration Act 2014 requires landlords to follow the code of practice for landlords as published by the Home Office. The latest version was published in January 2024. Landlords should be aware of the updates, and in particular, changes to the civil penalty rates. Further information can be obtained from the Home Office website.

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3. What is required

3.1 Right to rent checks should be performed without regard to race, religion, or any other protected characteristic or equality as specified in the Equality Act 2010, on all tenants aged 18 or over, on all occasions when the property is let.

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3.2 The scheme applies to all types of accommodation where the property being let will be the main or only residence of the tenant. The scheme does not apply to long leases, holiday lets, or student accommodation.

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4. Transfer of responsibility

4.1 Responsibility for conducting right to rent checks can be transferred from the landlord to an agent as follows:

A landlord can transfer responsibility for conducting right to rent checks to an agent. There are three ways in which this responsibility for compliance with the scheme can be transferred as follows:

4.1.1

Landlord appoints an agent to conduct right to rent checks on your behalf. Further information on this topic can be found [here](#).

4.1.2

If a landlord frequently sub-lets and authorises occupation, then they can transfer responsibility for occupation by the subtenants and sub-tenants to the agent. The agent is responsible for compliance with the scheme. They may be liable for a civil penalty if they do not undertake the prescribed checks and allow occupation by someone who needs and does not have the right to rent.

4.1.3

If a landlord sub-lets and becomes a landlord, they can ask their sub-tenant (or landlord) to agree to accept responsibility for the sub-tenants and any contraventions of the scheme. The sub-tenant will then be responsible for conducting right to rent checks and will have no liability for a penalty. This should be an exception.

4.1.4

If a landlord transfers a property with sitting tenants/occupiers, the new landlord must agree with the transferring landlord that right to rent checks will be undertaken and retain evidence, for example copies of checks, of the checks undertaken by the previous landlord. The landlord should ensure that the new tenant and when further follow-up checks must be undertaken. A statutory excuse against penalty is maintained.

5. Right to rent

5.1 Under the Right to Rent legislation, all tenants fall into two broad categories. The two categories are unlimited right to rent and time limited right to rent.

5.2 Unlimited right to rent

5.2.1 Unlimited right to rent applies to British citizens or people who have an unlimited right to rent.

5.2.2 Unlimited right to rent applies to those who have the right of abode in the UK, or who have been granted temporary entry, leave to enter, leave to remain or have settled status, including via the EU Settlement Scheme. There is no time limit on their permission to stay in the UK.

5.2.2.1 Landlords are liable for a civil penalty if they let accommodation to someone with an unlimited right to rent.

5.3 Time limited right to rent

5.3.1 Landlords of properties where an unlimited right to rent will have a time-limited right to rent if they do not have valid permission to stay, including pre-settled status. They will have a right to reside in the UK and will be required to provide documentary evidence (physical or digital) to prove their right to rent.

5.3.2 Landlords are liable for a civil penalty if they let accommodation to someone with a time-limited right to rent.

5.3.3 Landlords must ensure that anyone who is not permitted to occupy residential accommodation if they do not have the right to rent. This means they must ensure that anyone who does not have the right to rent. A landlord will normally be liable for a civil penalty if they let accommodation for use as an only or main residence to someone who does not have the right to rent.

6. How to prove right to rent from civil liability

6.1 In order to avoid a civil penalty, landlords must establish what is termed a statutory excuse under section 24 of the Immigration Act 2014. This means that landlords are excused from paying a penalty for letting their properties to someone who is not qualified from renting. Landlords can establish a statutory excuse by conducting checks on all adult tenants who occupy the property. They must do one of the following before commencing a tenancy:

6.1.1 Conduct a right to rent check on all proposed adult tenants. A breakdown of the categories of List A and List B forms part of the Right to Rent guidance which can be found [here](#).

6.1.2 Use a digital check using Identity Document Validation Technology (IDVT) provided by a provider of an Identity Service Provider (IDSP) (British Citizen or Settled Status). It is the landlord's responsibility to obtain a digital check from the IDSP and they should ensure they are using a provider that satisfies a minimum of a Medium level of security which is detailed on the government website.

6.1.3 Use the Home Office online service. Individuals issued with a Biometric Residence Card/Biometric Residence Permit/Immigration Status Document can use the online service. Landlords must

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at the photograph on the online right to rent check. Landlords should also keep a copy of the response for the tenancy and for a period of 12 months after the tenancy ends.

6.1.4 Landlords must use the Home Office Landlord Checking Service. The Landlord Checking Service is the Home Office Landlord Checking Service when an application is made. The following:

• A Certificate of Application (CoA) or an application letter or email, confirming receipt of an application to the EUSS, on or before 20 June 2021.

• A digital CoA confirming the individual has made a claim to the EUSS on or after 1 July 2021, and is not an EEA national.

• A claimant who has made a claim or has an appeal pending against their

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6.1.5 The Landlord Checking Service will respond to the landlord with a clear response within 2 working days. Any response from the Landlord Checking Service must be retained in order to provide a statutory excuse against a civil penalty. The Landlord must clearly set out whether a check will be required, and if so, when.

7. How to maintain a right to rent

7.1 For a tenant with an unlimited right to rent, you only need to check the right to rent once the tenancy commences and you will maintain a statutory excuse for the duration of the tenancy.

7.2 For a tenant with a time limited right to rent, if landlords carry out the prescribed checks, they will be able to provide a time limited statutory excuse known as the "eligible" excuse. The longest of the following:

7.2.1 The date on which the checks were last made;

7.2.2 The date on which the tenant's permission to be in the UK expires;

7.2.3 The date on which the validity period of the document which evidences the tenant's right to be in the UK expires.

7.3 To maintain a statutory excuse, a check should be conducted before the expiry of the tenant's right to rent. Any time the tenant tells the landlord that they have a time limited right to rent, a check should be conducted.

7.4 The landlord must provide a check for their continued right to rent. If they cannot provide a check (physical or digital), but claims to have reasons for this, they must provide a check from the Landlord Checking Service.

7.5 When a landlord is required to conduct a manual check or use the Home Office online check, the check must be undertaken and recorded no earlier than 28 days before the expiry of the tenancy agreement.

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7.6 Please ensure that a rent check has been conducted using the Home Office's Rent Check Service and directly from the Home Office, there will be no redaction of documents in the lists. Landlords should ensure they keep the documents safe from the Home Office and keep this safe.

7.7 If the landlord believes that an occupier no longer has the right to rent, they should report to the Home Office as soon as is reasonably possible. The Home Office has a statutory excuse. The Home Office has produced a list of reasonable steps to end a residential tenancy agreement. These steps should be followed.

8. **Appealing a decision**

8.1 Landlords can appeal a civil penalty if:

8.1.1 The landlord did not carry out the initial checks before letting the property and the landlord cannot prove that they've done so

8.1.2 The landlord did not carry out a follow up check if the initial check shows a limited right to rent

8.1.3 The landlord did not report to the Home Office if the check shows someone no longer has the right to rent

8.1.4 The landlord did not report to the Home Office if the check shows someone who is not eligible. This would be where the agent or tenant has not been checked for the right to rent checks.

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