

2014 No. 2874

IMMIGRATION

The Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order 2014

*Made - - - - 28th October 2014
Laid before Parliament 30th October 2014
Coming into force - - 1st December 2014*

[As amended by S.I. Nos. 2016/9; 2020/1047; 2021/689; and 2022/242]

The Secretary of State, makes the following Order in exercise of the powers conferred by sections 24(2), (4), (7) and (8), 26(2), (4), (7) and (8), 29(3) and (6), 32(6), 33(5), 34(1) and 37(1)(1) of the Immigration Act 2014(2).

In accordance with section 32(6) of that Act a draft code of practice for the purposes of Chapter 1 of Part 3 has been laid before Parliament.

In accordance with section 33(3) of that Act the Secretary of State has consulted the bodies specified in that section about a code of practice specifying what a landlord or agent should or should not do to avoid contravening the Equality Act 2010, so far as relating to race, or the Race Relations (Northern Ireland) Order 1997, published a draft code, considered any representations made about the published draft code and laid a draft code before Parliament.

Citation and commencement

1. This Order may be cited as the Immigration (Residential Accommodation) (Prescribed Requirements and Codes of Practice) Order 2014 and comes into force on 1st December 2014.

Interpretation

2. In this Order—

“the Act” means the Immigration Act 2014;

“asylum-seeker” has the meaning given in section 94(1) of the Immigration and Asylum Act 1999;

“biometric immigration document” has the meaning given in section 5 of the UK Borders Act 2007;

▶¹ “charity” means a charity within the meaning of section 1 of the Charities Act 2011, or section 1 of the Charities Act (Northern Ireland) 2008 or a body entered in the Scottish Charity Register; ◀

“claim for asylum” has the meaning given in section 94(1) of the Immigration and Asylum Act 1999;

“derivative residence card” means a card issued in accordance with ▶² regulation 20 of the Immigration (European Economic Area) Regulations 2016 ◀ to a person who is not an EEA or Swiss national;

“document” means an original document;

▶³ “document certifying permanent residence” means a document issued under regulation 19(1) of the Immigration (European Economic Area) Regulations 2016; ◀

¹ Definition inserted by S.I. 2016/9 art 3 from 01/02/2016.

² Words substituted by S.I. 2020/1047 art 2(2) from 02/11/2020.

³ Definition inserted by S.I. 2020/1047 art 2(2) from 02/11/2020.

- ▶⁴ “further education institution” means an institution which is within the further education sector; ◀
- ▶⁵ “higher education institution” means—
 - (a) an institution that has been granted degree-awarding powers by either a Royal Charter, an Act of Parliament or the Privy Council; or
 - (b) an institution not falling within paragraph (a) but which provides full courses that lead to the award of a degree by an institution falling within that paragraph; ◀
- ▶⁶ “Home Office online right to rent checking service” means the electronic system operated by the Home Office allowing landlords or agents to check whether a person has a right to rent in the United Kingdom and, if so, the nature of any restrictions on that person’s right to do so; ◀
 “Landlord Checking Service” means the enquiry and advice service for landlords and agents operated by the Home Office;
 “occupier” means any adult who is authorised to occupy premises under a residential tenancy agreement;
- ▶⁷ “online right to rent check” means the response generated by the Home Office online right to rent checking service in relation to a person; ◀
- ▶⁸ “permanent residence card” means a permanent residence card issued under regulation 19(2) of the Immigration (European Economic Area) Regulations 2016, and includes an “accession residence card” within the meaning of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 issued to a person who is not an EEA or Swiss national; ◀
 “Positive Right to Rent Notice” means a document issued by the Landlord Checking Service which indicates that the person named in it is not disqualified from occupying premises under a residential tenancy agreement;
 “prospective occupier” means an adult who, under a residential tenancy agreement, will be authorised to occupy premises;
- ▶⁹ “public authority” has the meaning given by section 6(3) of the Human Rights Act 1998; ◀
- ▶¹⁰ “registration certificate” means a certificate issued under regulation 17 of the Immigration (European Economic Area) Regulations 2016; ◀
- ▶¹¹ “residence card” means a residence card issued in accordance with regulation 18 of the Immigration (European Economic Area) Regulations 2016, and includes an “accession residence card” within the meaning of the Accession of Croatia (Immigration and Worker Authorisation) Regulations 2013 issued to a person who is not an EEA or Swiss national; ◀
- ▶¹² “voluntary organisation” means a body (other than a public authority) whose activities are not carried on for profit. ◀

The prescribed requirements

- ▶¹³ **3.** For the purposes of sections 24(2) and (7)(a) and 26(2) and (7)(a) of the Act, a landlord or agent complies with the prescribed requirements if—
 - (a) the landlord or agent—
 - (i) obtains documents prescribed in article 4 from an occupier or prospective occupier; and
 - (ii) in accordance with article 5, takes steps to verify, retain, copy or record the contents of a document obtained under article 4;
 - (b) the landlord or agent takes the steps set out in article 5A; or
 - (c) the landlord or agent takes the steps set out in article 5B. ◀

The prescribed requirements

4. The landlord or agent must—

⁴ Definition inserted by S.I. 2016/9 art 3 from 01/02/2016.

⁵ Definition inserted by S.I. 2016/9 art 3 from 01/02/2016.

⁶ Definition inserted by S.I. 2020/1047 art 2(2) from 02/11/2020.

⁷ Definition inserted by S.I. 2020/1047 art 2(2) from 02/11/2020.

⁸ Definition inserted by S.I. 2020/1047 art 2(2) from 02/11/2020.

⁹ Definition inserted by S.I. 2016/9 art 3 from 01/02/2016.

¹⁰ Definition inserted by S.I. 2020/1047 art 2(2) from 02/11/2020.

¹¹ Definition substituted by S.I. 2020/1047 art 2(2) from 02/11/2020.

¹² Definition inserted by S.I. 2016/9 art 3 from 01/02/2016.

¹³ Article 3 substituted by S.I. 2020/1047 art 2(3) from 02/11/2020.

- ▶¹⁴(a) obtain from the occupier or prospective occupier—
 - (i) one document listed in List A(1) in the Schedule to this Order; or
 - (ii) two documents listed in List A(2) in the Schedule to this Order; or
 - (iii) one document listed in List B in the Schedule to this Order; or◀
- (b) subject to article 6, obtain a Positive Right to Rent Notice in respect of the occupier or prospective occupier from the Landlord Checking Service where—
 - (i) the occupier or prospective occupier informs the landlord or agent that—
 - (aa) they have an outstanding application to vary their leave to enter or remain in the United Kingdom, or have an administrative review or appeal pending against a decision on that application, or
 - (bb) they are an asylum seeker or have an appeal pending against a determination made by the Secretary of State in respect of their claim for asylum, or
 - ▶¹⁵(cc) they have made an application for leave to enter or remain under Appendix EU to the immigration rules on or before 30th June 2021, or◀
 - ▶¹⁶(cca) they have a Certificate of Application issued by the Home Office, showing that they have made an application for leave to enter or remain under Appendix EU to the immigration rules on or after 1st July 2021, or
 - (ccb) they have 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 (Bailiwick of Guernsey) Rules 2008, or Appendix EU to the Isle of Man Immigration Rules (as the case may be), or◀
 - (dd) they are a person to whom the Secretary of State has granted permission to occupy premises under section 21(3) of the Act, and
- (ii) the occupier or prospective occupier provides the landlord or agent with their Home Office issued reference number in relation to that application, claim, administrative review, appeal or permission to occupy premises.

The prescribed requirements

5. Where the landlord or agent obtains any document from an occupier or prospective occupier or the Landlord Checking Service pursuant to article 4, the landlord or agent must—

- (a) take all reasonable steps to check the validity of the document;
- (b) if a document contains a photograph, satisfy themselves that the photograph is of the occupier or prospective occupier;
- (c) if a document contains a date of birth, satisfy himself that the date of birth is consistent with the appearance of the occupier or prospective occupier;
- (d) take all other reasonable steps to check that the occupier or prospective occupier is the rightful owner of the document;
- (e) if the document is not a passport or other travel document, retain a clear and legible copy of the whole of the document in a format which cannot be subsequently altered;
- (f) if the document is a passport or other travel document (which is not in the form of a card), retain a clear and legible copy of the following pages of that document in a format which cannot be subsequently altered—
 - (i) any page containing the holder’s personal details including nationality;
 - (ii) any page containing the holder’s photograph;
 - (iii) any page containing the holder’s signature;
 - (iv) any page containing the date of expiry; and
 - (v) any page containing information indicating the holder has an entitlement to enter or remain in the UK;

¹⁴ Article 4(a) substituted by S.I. 2020/1047 art 2(4) from 02/11/2020.

¹⁵ Article 4(b)(i)(cc) substituted by S.I. 2021/689 art 5(2) from 01/07/2021.

¹⁶ Article 4(b)(i)(cc)(cca) to (ccb) inserted by S.I. 2022/242 art 4(2) from 06/04/2022.

- (g) if the document is a travel document in the form of a card, retain a clear and legible copy of the whole of that document in a format which cannot be subsequently altered;
- (h) record the date on which the copies were taken;
- (i) retain a clear and legible copy or copies securely for a period of not less than one year after the residential tenancy agreement has come to an end;
- (j) take all reasonable steps to identify any additional occupants of the property at the time the occupier or prospective occupier enters into the residential tenancy agreement.

►¹⁷ **The prescribed requirements**

5A.—(1) Where the occupier or prospective occupier has leave to enter the United Kingdom pursuant to article 8B of the Immigration (Leave to Enter and Remain) Order 2000 (further provision as to automatic grant of leave), the steps are that a landlord or agent—

- (a) obtains from the occupier or prospective occupier—
 - (i) a passport showing that the holder is a national of ►¹⁸ a country listed in the Schedule to the Immigration (Leave to Enter and Remain) Order 2000 ◀; and
 - (ii) a document or a copy of such a document (whether in an electronic form or otherwise) which indicates that the holder has arrived in the United Kingdom from another country within the period of six months ending with the day before the day on which the landlord obtains that passport and document or a copy of such a document; or
- (b) subject to article 6, where the occupier or prospective occupier cannot provide the documents (or copies of such documents, as the case may be) referred to in sub-paragraph (a), obtains a Positive Right to Rent Notice in respect of the occupier or prospective occupier from the Landlord Checking Service.

(2) Where the landlord or agent obtains any document or copy of such document from an occupier or prospective occupier or the Landlord Checking Service pursuant to paragraph (1), the landlord or agent must comply with the requirements set out in article 5 in respect of that document or copy.

The prescribed requirements

5B.—(1) The steps are that—

- (a) the landlord or agent uses the Home Office online right to rent checking service in respect of an occupier or prospective occupier;
- (b) the online right to rent check confirms that the occupier or prospective occupier named in it has the right to rent in the United Kingdom;
- (c) the landlord or agent has satisfied themselves that any photograph on the online right to rent check is of the occupier or prospective occupier; and
- (d) the landlord or agent retains a clear copy of the online right to rent check for a period of not less than one year after the residential tenancy agreement has come to an end. ◀

The prescribed requirements

6. If the Landlord Checking Service fails to respond to a request made by a landlord or agent under article 4(b) ►¹⁹ or article 5A(1)(b) ◀ for confirmation of an occupier or prospective occupier's eligibility to occupy private residential accommodation within a period of 48 hours, not including Saturdays or Sundays, Christmas Day or Good Friday, or any day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971, then the landlord or agent may proceed as though the Landlord Checking Service had issued a Positive Right to Rent Notice.

The prescribed requirements

7. Nothing in this Order permits landlords or agents to retain documents produced by an occupier or prospective occupier for the purpose of article 4 ►²⁰ or 5A ◀ for any period longer than is necessary for the purposes of ensuring compliance with article 5.

¹⁷ Articles 5A and 5B inserted by S.I. 2020/1047 art 2(5) from 02/11/2020.

¹⁸ Words substituted by S.I. 2021/689 art 5(3) from 01/07/2021.

¹⁹ Words inserted by S.I. 2020/1047 art 2(6) from 02/11/2020.

²⁰ Words inserted by S.I. 2020/1047 art 2(7) from 02/11/2020.

Time for compliance with the prescribed requirements

8. The prescribed period within which the prescribed requirements must be complied with for the purposes of sections 24(4) and 26(4) of the Act is 28 days ending on the day before the day on which the residential tenancy agreement which authorises occupation is entered into.

Notification of contraventions to the Secretary of State

9. The prescribed form and manner of notification for the purposes of sections 24(8) and 26(8) of the Act is that it must be ►²¹made via the GOV.UK website or by telephone◀ and must—

- (a) contain—
 - (i) the full ►²² name, date of birth and nationality◀ of the occupier who is believed to be a disqualified adult;
 - (ii) the address of the premises in which the occupier has been granted a right of occupation;
 - (iii) the name and contact address of the landlord;
 - (iv) the name and contact address of any agent;
 - (v) the date on which the occupier first became entitled to take up occupation; and

►²³◀.

Objection

10. A notice of objection must contain—

- (a) the reference number of the notice given under section 23(1) or section 25(3) of the Act;
- (b) the name and contact address of the landlord;
- (c) the name and contact address of any agent;
- (d) the name and address of the occupier in respect of whom the penalty was issued;
- (e) the full grounds of objection; and
- (f) any documents to be relied upon in support of the objection.

Objection

11. The prescribed period within which a notice of objection must be given for the purposes of section 29(3)(d) of the Act is 28 days, beginning with the date specified in the penalty notice as the date upon which it is given.

Objection

12. The prescribed period for the purposes of section 29(6) of the Act within which the Secretary of State must inform the objector of the Secretary of State's decision is 28 days, beginning with the date on which the notice of objection was given to the Secretary of State.

►²⁴Code of practice: civil penalties

13. The revised code of practice entitled “Code of practice on right to rent: civil penalty scheme for landlords and their agents”, issued by the Secretary of State under section 32(5) of the Act and laid in draft before Parliament on 2nd March 2022, comes into force on 6th April 2022.

Code of practice: discrimination

14. The revised code of practice entitled “Code of practice for landlords: Avoiding unlawful discrimination when conducting ‘right to rent’ checks in the private rented residential sector”(3), issued by the Secretary of State under section 33(2) of the Act and laid in draft before Parliament on 2nd March 2022, comes into force on 6th April 2022.◀

²¹ Words substituted by S.I. 2016/9 art 4 from 01/02/2016.

²² Words substituted by S.I. 2020/1047 art 2(8) from 02/11/2020.

²³ Paragraph (b) omitted by S.I. 2016/9 art 4 from 01/02/2016.

²⁴ Articles 13 and 14 substituted by S.I. 2022/242 art 4 from 06/04/2022.

Home Office
28th October 2014

²⁵ ► SCHEDULE

LIST A(1)

1. A passport (current or expired) showing that the holder is a British citizen or a citizen of the United Kingdom and Colonies having the right of abode in the United Kingdom.

►²⁶ ►²⁷ **1A.** A passport or passport card (in either case, whether current or expired) showing that the holder is an Irish citizen. ◀

1B. 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 Landlord 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 (as the case may be). ◀

►²⁸ ◀

►²⁹ ◀

8. A passport or other travel document (current or expired) endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the United Kingdom, has the right of abode in the United Kingdom, or has no time limit on their stay in the United Kingdom.

9. 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 United Kingdom indefinitely or has no time limit on their stay in the United Kingdom.

10. A certificate of registration or naturalisation as a British citizen.

LIST A(2)

1. A birth certificate issued in the United Kingdom.

2. An adoption certificate issued in the United Kingdom.

3. A birth certificate issued in the Channel Islands, the Isle of Man or Ireland.

4. An adoption certificate issued in the Channel Islands, the Isle of Man or Ireland.

²⁵ Schedule substituted by S.I. 2020/1047 art 2(9) from 02/11/2020.

²⁶ Paragraphs 1A and 1B of List A(1) inserted by S.I. 2021/689 art 5(4)(a) from 01/07/2021.

²⁷ Paragraph 1A of List A(1) substituted by S.I. 2022/242 art 4(4)(a)(i) from 06/04/2022.

²⁸ Paragraphs 2 to 4 of List A(1) omitted by S.I. 2021/689 art 5(4)(b) from 01/07/2021.

²⁹ Paragraphs 5 to 7 of List A(1) omitted by S.I. 2022/242 art 4(4)(a)(ii) from 06/04/2022.

5. A letter which—

- (a) is issued by a government department or local authority no longer than three months before the date on which it is presented;
- (b) is signed by a named official stating their name and professional address;
- (c) confirms the holder's name; and
- (d) confirms that the holder has accessed services from that department or authority or is otherwise known to that department or authority.

6. A letter which—

- (a) is issued no longer than three months before the date on which it is presented;
- (b) is signed by a British passport holder who is or has been a professional person or who is otherwise of good standing in their community;
- (c) confirms the holder's name;
- (d) states how long the signatory has known the holder, such period being of at least three months' duration, and in what capacity; and
- (e) states the signatory's name, address, profession, place of work and passport number.

7. A letter issued by a person who employs the holder no longer than three months before the date on which it is presented, which indicates the holder's name and confirming their status as an employee and employee reference number or National Insurance number and states the employer's name and business address.

8. A letter issued by a police force in the United Kingdom no longer than three months before the date on which it is presented, confirming that the holder has been the victim of a crime in which a document listed in List A(1) to the Schedule belonging to the holder has been stolen and stating the crime reference number.

9. An identity card or document issued by one of Her Majesty's forces or the Secretary of State confirming that the holder is or has been a serving member in any of Her Majesty's forces.

10. A letter issued by Her Majesty's Prison Service, the Scottish Prison Service or the Northern Ireland Prison Service confirming that the holder has been released from the custody of that service no longer than six months before the date on which that letter is presented, and confirming their name and date of birth.

11. A letter issued no longer than three months before the date on which it is presented by an officer of the National Offender Management Service in England and Wales, an officer of a local authority in Scotland who is a responsible officer for the purposes of the Criminal Procedure (Scotland) Act 1995(5) or an officer of the Probation Board for Northern Ireland confirming the holder's name and date of birth and confirming that the holder is the subject of an order requiring supervision by that officer.

12. A current licence to drive a motor vehicle granted under Part 3 of the Road Traffic Act 1988(6) (to include the photocard licence in respect of licences issued on or after 1st July 1998) or Part 2 of the Road Traffic (Northern Ireland) Order 1981(7) (to include the photocard licence).

13. A certificate issued no longer than three months before the date on which it is presented, by the Disclosure and Barring Service under Part V of the Police Act 1997(8), the Scottish Ministers under Part V of the Police Act 1997 or the Secretary of State under Part V of the Police Act 1997, in relation to the holder.

14. A document, or a screen shot of an electronic document, issued no longer than three months before the date on which it is presented, by Her Majesty's Revenue and Customs, the Department of Work and Pensions, the Northern Ireland Department for Social Development or a local authority confirming that the holder is in receipt of a benefit listed in section 115(1) or (2) of the Immigration and Asylum Act 1999(9).

15. A letter which—

- (a) is issued no longer than three months before the date on which it is presented;

- (b) is issued by a public authority, voluntary organisation or charity in the course of a scheme operated to assist individuals to secure accommodation in the private rented sector in order to prevent or resolve homelessness;
- (c) confirms the holder's name; and
- (d) states the address of a prospective tenancy which the authority, organisation or charity is assisting the holder to obtain.

16. A letter which—

- (a) is issued by a further or higher education institution in the United Kingdom;
- (b) confirms that the holder has been accepted on a current course of studies at that institution; and
- (c) states the name of the institution and the name and duration of the course.

LIST B

1. A passport or travel document which has not expired, endorsed to show that the holder is allowed to stay in the United Kingdom for a time limited period.

▶³⁰◀◀

4. 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 in, the United Kingdom.

▶³¹◀◀

▶³² **6.** 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 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 (as the case may be).

▶³³◀◀◀

EXPLANATORY NOTE

(This note is not part of the Regulations)

Chapter 1 of Part 3 of the Immigration Act 2014 (“the Act”) provides a statutory excuse for landlords and their agents from being required to pay a civil penalty when the landlords or agents conduct prescribed identity checks on prospective occupiers and those occupiers who are renewing their tenancy agreements. This Order sets out the prescribed requirements for the prescribed identity checks which must be complied with by landlords when entering into a residential tenancy agreement. This Order also brings the statutory Codes of Practice into force.

Article 3 provides that a landlord or agent is required to obtain prescribed documents from an occupier or prospective occupier (in accordance with article 4), and once obtained, is required to take steps to verify, retain, copy or record the contents of the documents (in accordance with article 5).

³⁰ Paragraphs 2, 3 of List B omitted by S.I. 2022/242 art 4(4)(b) from 06/04/2022.

³¹ Paragraph 5 of List B omitted by S.I. 2022/242 art 4(4)(b) from 06/04/2022.

³² Paragraphs 6 to 8 of List B inserted by S.I. 2021/689 art 5(5) from 01/07/2021.

³³ Paragraphs 7, 8 of List B omitted by S.I. 2022/242 art 4(4)(b) from 06/04/2022.

Article 4 requires the landlord or agent to obtain either documents prescribed in Schedule 1 from the occupier or prospective occupier or to obtain a Positive Right to Rent Notice from the Landlord Checking Service.

Article 5 requires the landlord or agent, when they have obtained a document from an occupier or prospective occupier, to take the prescribed steps to verify, retain, copy or record the contents of the obtained documents.

Article 6 provides where a landlord or agent requests confirmation of an occupier or prospective occupier's eligibility to occupy a private residential accommodation from the Landlord Checking Service and the Landlord Checking Service fails to respond to such a request within 48 hours (not including requests made on Saturday, Sunday, Christmas Day, Good Friday or any designated bank holiday), the landlord or agent can proceed as if a positive Right to Rent Notice had been issued.

Article 7 provides that the landlord or agent must return original documents to the occupier or prospective occupier.

Article 8 prescribes a period of 28 days before the tenancy agreement is entered into during which the prescribed requirements must be complied with in order for the landlord or agent to obtain their statutory excuse under the Act.

Article 9 sets out what information the landlord or agent is required to provide to the Secretary of State when giving notice of a contravention by an occupier.

Article 10 sets out what information must be provided by the landlord when giving a notice of objection.

Article 11 prescribes the period within which a notice of objection must be given as 28 days beginning with the date specified in the penalty notice as the date upon which it is given.

Articles 12 and 13 provide for the codes of practice to come into force on 1st December 2014.

List A of the Schedule lists acceptable documents for the purposes of article 4(a)(i).

List B of the Schedule lists acceptable documents for the purposes of article 4(a)(ii).