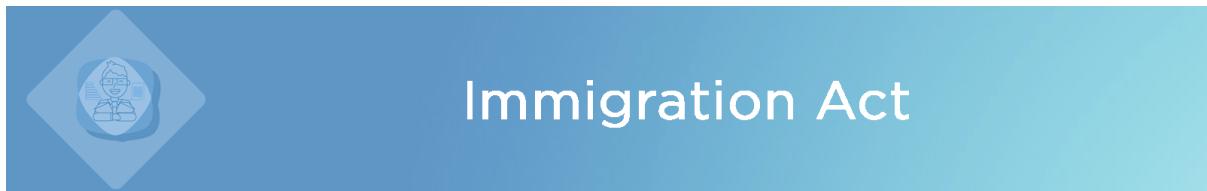




eBOOK – Immigration Act



Immigration Act (2014) (2016) Overview

Under the Immigration Act, Landlords and agents must check that all adults, who will live in the property, have a right to rent in the UK. You will have heard of these as the Right to Rent checks.

This covers everyone over the age of 18 who will use the property as their only, or main home, even if they are not named on the tenancy agreement and even if it is an oral tenancy.

Since 1 February 2016, all private Landlords in England have had to check that new tenants have the right to be in the UK, before renting out their property.

Under the new rules, all Landlords who fail to check a potential tenant's 'Right to Rent' will face penalties of up to £3,000 per tenant.

Any Landlords housing tenants that do not pass the right to rent checks, face up to £3,000 worth of fines per person.

We have covered the Right to Rent checks process, as part of the Negotiating a Let course.

But in summary the identity documents that are to be included in the checks are:

- a UK passport
- a European Economic Area passport or identity card
- a permanent residence card or travel document showing indefinite leave to remain
- a Home Office immigration status document
- a certificate of registration or naturalisation as a British citizen

You must take copies of the documents and keep the copies safe – scanned electronically into your CRM system or a hard copy stored in a locked filing cabinet, to be in line with data protection rules. If you no longer need the document you must shred them or delete, or use a secure waste company. You must keep the copies securely for at least one year after the tenancy agreement comes to an end.



Beware Discrimination

The Equality Act 2010 prevents race discrimination so Landlords must not discriminate against prospective tenants in any of the following ways:-

- In their treatment of the tenant seeking the accommodation;
- By refusing to offer the accommodation
- In the terms by which the accommodation is offered

To avoid discrimination, as we have covered on this course, it is advisable to carry out checks on all tenants, regardless of appearance or accent.

E.g A requirement for British passports only, would not be suitable, but a requirement for any type of valid passport would be fine.

There may be scenarios, which are more complicated.

For example: if a tenant applies from abroad and wants to move in on the day they arrive. It will be necessary to advise them that the tenancy is granted, subject to satisfactory checks, when they arrive in the UK.

If a tenant wears a headscarf or veil, you should ask them to show their face, to check that it matches their facial image on their documents. You don't need them to remove head scarves if they cover hair, but you do need to see their face. You can offer the chance to do this in private and/or in the presence of another female.

These checks apply to individual tenants, so if you are agreeing a company let, then the obligation falls to the "tenant company", to do the right to work checks.

You may also come across people with Diplomatic Passports. In this case the holder is exempt from immigration control so no checks are needed.

Action Point

Also read the course content relating to negotiating a let, where you will find more detail about carrying out Right to Rent checks.