

NOTE: This version was updated on 28 September 2023.
There may be an updated version on the website at righttoremain.org.uk/toolkit

Illegal Migration Act 2023

A new law called *The Illegal Migration Act 2023* has recently come into force. The Act has brought about significant changes to the UK asylum and immigration system for people who arrive in the UK on or after 20 July 2023. We are in the process of updating the Toolkit to reflect these developments. For now, please be aware that some of the information in the Toolkit may be out-of-date for people who arrived in the UK after that date. To stay up to date with any changes to the Toolkit, please sign up to our newsletter.

Applying for Permission to Work (Asylum)

On this page, you will find the following information:

- What is asylum permission to work?
 - Shortage Occupation List
 - Difference between permission to work and skilled worker visa
 - Working as a student
- How to apply for permission to work
 - National Insurance number
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 - Your rights - employers withdrawing offers
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What is asylum permission to work?

We get a lot of people contacting us with questions about requesting permission to work from the Home Office when they have been waiting a long time for a decision on their asylum claim.

Most people who have claimed asylum in the UK are initially not allowed

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to work. This can be really difficult because it feels like you cannot move on with your life, and you cannot earn your own money whilst waiting for a delayed decision from the Home Office.

However, the immigration rules allow for you to request permission to work if you have been waiting for **more than 12 months** on your asylum claim “through no fault of your own”. This may be 12 months after initially [claiming asylum](#), or 12 months after submitting further submissions to be considered as a [fresh claim](#).

Almost everybody granted permission to work under this policy is only allowed to work in a job on the Home Office’s shortage occupation list.

However, people seeking asylum always have the right to volunteer. You can learn more about the right to volunteer [here](#).

Shortage Occupation List

The Shortage Occupation List (often shortened to ‘SOL’) is a list published by the Home Office that shows jobs that have a shortage (this means not enough) people working in them in the UK.

[Read the Shortage Occupation List here](#)

Most jobs on the shortage occupation list are specialised (like civil engineers, architects, or classical ballet dancers). This is limiting because it means that people who seek asylum in the UK and obtain work permission cannot work in whatever job they would like to choose.

However, in 2021 and 2022 the list was expanded to include positions like nursing (and nursing assistants), and care work. In 2023, roles in the building industry and in programming were also added. This opened the possibility of employment up to more people seeking asylum.

Difference between permission to work and skilled worker visa

Applying for a [‘skilled worker visa’](#), and [claiming asylum](#) in the UK are **two**

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separate paths to immigration status. This often confuses people because both routes have the same shortage occupation list.

A skilled worker visa is for people who apply to come to or stay in the UK to do an eligible job with an approved employer. Their visa is tied to sponsorship by their employer. You can read more about the skilled worker visa [here](#).

[Shortage occupation list](#)

By contrast, someone who claims asylum comes to the UK to seek international protection from fear of persecution. You can learn more about the definition of asylum and what the process is like in the UK [here](#).

People who have claimed asylum in the UK are **not** eligible to go down the skilled worker visa route to get a job if they are still waiting for a decision on their asylum claim. People can only [switch](#) to the skilled worker route if they **already have another type of visa in the UK**.

Similarly, skilled workers cannot apply for permission to work as an asylum seeker because they are already in the UK on the basis of a sponsorship by an employer (although skilled workers are now allowed to update their visa if they change their role or employer).

Working on a student visa

Again, permission to work as a person seeking asylum and permission to work as someone with a student visa in the UK are two separate paths.

Students are able to work in line with the conditions outlined on their student visa, and that work doesn't have to be on the shortage occupation list. However, if a student is receiving legal aid or asylum support, how much they earn could affect whether or not they continue to be eligible for these services.

[Learn more about working with a student visa](#)

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How to apply for asylum permission to work

Permission to work is not issued automatically: you have to apply to the Home Office for it.

If you have a lawyer, it is a good idea to ask them to help you apply for work permission. If you do not have a lawyer, the [Migration Justice Project](#) (part of the Law Centre in Northern Ireland) has drafted a useful guide to applying for work permission.

You can access the guide in [English](#), [Tigrinya](#), [Somali](#), [Farsi](#), and [Arabic](#).

To apply for permission to work from the Home Office, you will have to write to the Home Office with evidence.

All applications for permission to work from people seeking asylum or people who have submitted further submissions for a fresh claim should be made by writing to UK Visas and Immigration (UKVI) and should include the following information:

- Your full name, date of birth and nationality
- Home Office reference number
- A statement setting out your request for permission to work
- Your contact details (email address, phone number and address) and the contact details of your legal representative (if you have one).

Applications must be sent to the one of the following teams:

- **Asylum Casework Teams:** people awaiting an **initial** decision on their asylum claim should submit any request for permission to work via email to AomPTW@homeoffice.gov.uk or by post to: Permission to Work Team, Asylum Operations, Department 139, The Capital, Old Hall Street, Liverpool, L3 9PP
- **Refused Case Management:** Applications for permission to work from people whose asylum claims have been refused but who have outstanding further submissions are dealt with by Refused Case

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Management and should be sent via email to RCMPTW@homeoffice.gov.uk or by post to: Permission to Work Team, Administrative Unit, Level 7, The Capital, New Hall Place, Liverpool, L3 9PP

Once you have received permission to work, you will be issued with a **new** Asylum Registration Card (often referred to as an 'ARC' card) to reflect that you have permission to work. Often people experience a delay in receiving their new ARC card.

National Insurance Number

When you have received your updated ARC card, you will need to apply for a **National Insurance Number** (often shortened to 'NI'). Again, the Migration Justice Project has published a guide to obtaining a National Insurance Number once you have obtained permission to work.

Please note that if you are in Northern Ireland, you apply for a national insurance number on the nidirect website
<https://www.nidirect.gov.uk/articles/national-insurance-numbers>.

If you are in Great Britain (England, Scotland, Wales), you apply for a national insurance number on the gov.uk website
<https://www.gov.uk/apply-national-insurance-number>.

You can access the guide in [English](#), [Tigrinya](#), [Somali](#), [Farsi](#), and [Arabic](#).

Your new employer may also ask you to complete an **Access NI check**. This is a criminal history record check which lets your employer know if you have been convicted of a criminal offence or are barred from working with children or vulnerable adults. This is the standard procedure for anyone who works with vulnerable persons.

Common Problems

Unfortunately, for many people, receiving permission to work can often lead to a number of other problems. We will list the most common

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challenges here, along with some potential actions that you can take to resolve them.

How does permission to work affect asylum support?

If you have claimed asylum, and do not have anywhere to live and/or money to support yourself, you may be able to get asylum support. This is provided by the Home Office and, depending on your circumstances, can include housing and/or basic living expenses.

Asylum support is provided by the Home Office while your asylum claim is being considered (this means while you are waiting for a decision), or after your claim for asylum has been refused.

Asylum support is different from mainstream welfare benefits.

[Learn more about Asylum Support](#)

If you receive permission to work, this will not affect your asylum support.

However, if you start working and have an income (this means you start to earn money), you will have a legal duty to **notify** the Home Office of this. The Home Office will then review your situation to see whether or not you are still considered 'destitute'. The outcome of this will depend on your specific situation.

EXAMPLES – how income might affect asylum support

For example, if your income is less than your weekly asylum support subsistence (less than £45 per week), the amount of subsistence will likely be reduced but not stopped.

If your income is more than your weekly asylum support subsistence (more than £45 per week), then the Home Office will likely stop giving you the weekly subsistence because you would no longer meet the destitution requirement, as explained in the text above.

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In this situation, if you receive both weekly subsistence and asylum accommodation, and it is clear that although your income is more than the weekly subsistence but not enough to pay for private accommodation, the Home Office may stop your weekly subsistence and ask you to pay some contribution for your asylum accommodation instead of expecting you to move out.

Delays

Many people in our community tell us that they have been experiencing very long delays from the Home Office in:

Moving forward with their asylum application (having their interview, or receiving a decision on their claim)

Receiving a grant of work permission after they have applied for it

Receiving an updated ARC card once they have been granted work permission

We know that waiting a long time for a Home Office decision can be a very stressful and exhausting experience.

A [report published by the Refugee Council](#) in July 2021 found that the average waiting time for an initial decision on an asylum case is likely to be between one and three years. It stated that Home Office delays in providing initial decisions on asylum claims were mainly caused by a failure by the Home Office to keep up with the number of decisions that needed to be made.

David Neale, Chief Inspector for borders and immigration, highlighted this failure by the Home Office in a report which was published in May 2022. So, inefficient decision-making and [‘internal failings’](#) of the Home Office have led to this crisis.

Waiting a long time for a Home Office decision can be emotionally exhausting and stressful, even if you eventually receive a positive decision and refugee status.

If you are facing a delay at any point in the asylum process, it can

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sometimes be useful to get your local Member of Parliament (MP) involved in your asylum, human rights, or immigration case. You can find out who your local MP is by visiting the [They Work For You website](#) and typing in your postcode. Contacting your MP can be useful for two main reasons. First, they may be able to contact the Home Office on your behalf to speed up the time it takes for them to give you a decision.

However, given the number of delays across the country, this might not be possible or successful. So, the second useful thing about contacting your MP about a delay is that it shows them just how many people in their constituency are facing Home Office delays; and this makes it more likely that they will raise the issue in Parliament which will give it more attention.

Read more about contacting your MP

You can learn more about delays by watching our YouTube video here:

<https://youtu.be/U4CPZasVbdw>

Share code issues

A share code is an online nine-digit code of letters and numbers that can be provided to you on the Home Office website. It is used by people who do not have a British passport to show an employer that they have the right to work.

A common issue that we have heard about is that people are granted permission to work, but when they input their details on the Home Office website, no share code comes up and so employers are refusing to give them a job.

There are a few things you can do if you are in this position.

First, if you have received an 'ASL 4264' letter from the Home Office confirming your grant of permission to work, your employer may accept this as proof if you show it to them.

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Second, if you do not have this letter or your employer says that it is not enough, employers can use the **Employer Checking Service** to ask the Home Office to check an employee's or potential employee's immigration status if they cannot show their documents or online immigration status, or if the employer won't accept the ARC card or associated letter.

[Use the Employer Checking Service](#)

Your rights - employers withdrawing offers

Some people have found that they receive an offer of employment, but when the employer finds out that they are seeking asylum, the offer is withdrawn (this means taken away).

Aké Achi from [Migrants at Work](#) has provided an excellent guide to figure out whether the employer was right to withdraw their offer or whether you can challenge it as follows:

Was the employer right to withdraw their offer?

An employer can withdraw a job offer. How they can withdraw it depends on whether the job offer was 'conditional' or 'unconditional'.

*A job offer can be '**conditional**' (this means it has conditions, like that you need to have a certain degree or be based in a certain location) or '**unconditional**' (this means it has no conditions), and made **verbally** (this means by speaking) or **written** down.*

Was the job offer conditional or unconditional?

If there was a conditional offer, was it on the basis of the right-to-work checks?

By law, an employment contract could begin as soon as someone accepts a job offer, even if they only accepted it verbally.

An employer could be breaking discrimination law if they withdraw a conditional or unconditional job offer because of any of these 9 'protected

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characteristics':

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

*If the employer is withdrawing the offer, when the contract is in place, the employer must have a **valid reason**. A failure to produce a right-to-work document is not a valid reason because workers have no legal obligation to supply any documentary evidence of their right to work to any employer. **The right to work and the right to work checks are two different things.***

Employers have no legal obligation to obtain any document before they employ anyone - that is a myth. The only obligation is to establish a statutory excuse, not to obtain immigration documents. The duty is placed on the employer, not the worker.

If your employer has withdrawn the job offer, you can take the following steps:

- Ask why the job offer was withdrawn (was it because you could not provide documents showing your right to work in the UK?)
- Explain your concerns to the employer
- Ask them why they believe that you do not have the legal right to work.
- Explain the impact on you – for example, they are discriminating against you.
- *Show any relevant evidence – for example, the employer's guide to right-to-work checks, and [this Home Office guidance](#) (see page 13 specifically)*
- Say what you'd like to happen to resolve the issue.
- Say you are prepared to listen to their point of view.
- If the employer has breached the contract's terms, as an applicant, you might be able to make a claim, but the employer likely won't want to take legal action.
- *In that case, you can contact [Migrants at Work](#) for further help and support*

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Further information about migrant workers' rights

To learn more about migrant workers' rights, and to join the movement in advocating for their rights and fair treatment, or receive further support, you can look to the work of the following organisations:

- [Migrants' Rights Network](#) - especially their #ChallengeTheChecks campaign.
- [Refugee Action](#) - especially their #LiftTheBan campaign to give people seeking asylum the right to work in the UK which you can read more about [here](#).
- [The Joint Council for the Welfare of Refugees \(JCWI\)](#) - you can access and print out their flyers in support of migrant workers' rights by clicking [here](#).
- JCWI also lead the #WorkItOut campaign in support of migrant workers' rights which you can read more about [here](#).
- [Migrants at Work](#) - an organisation that seeks to prevent #HomegrownSlavery, protect migrants in the workforce, and empower migrant workers. You can read their blog post about right to work checks [here](#).
- Check out the work of (and join!) a union - the [Independent Workers' Union of Great Britain](#) (IWGB), [United Voices of the World](#) (UVW) and [Industrial Workers of the World](#) (IWW) are the main unions supporting the precarious position of migrant workers.