

GRAVITAX GROUP

Client Briefing — August 2026

The Border Security, Asylum and Immigration Act 2025:

What it means for your business, in plain English

You may have seen headlines about a new immigration law. The Border Security, Asylum and Immigration Act 2025 became law on 2 December 2025, and parts of it are being switched on gradually through 2026. Most of it concerns border enforcement and the asylum system — but one part affects almost every business that uses staff, contractors, freelancers or agency workers, and it comes into effect on 1 October 2026. This note sets out what's changing and what you need to do before then.

The headline for your business

From **1 October 2026**, the duty to check someone's right to work in the UK no longer applies only to your direct employees. It extends to a much wider group — contractors, subcontractors, agency staff, freelancers and gig-economy workers — and you can be held responsible even where you have no direct contract with the individual.

Who is now covered

Until now, “right to work checks” have mainly been thought of as an HR task for people you employ directly. Section 48 of the Act widens that considerably. From 1 October 2026, the checking duty extends to:

- **Workers, not just employees** — people engaged under a worker's contract, including casual, temporary and zero-hours staff — anyone who does the work personally and isn't genuinely your client or customer.
- **Individual subcontractors in a supply chain** — someone you engage to help deliver work or services that your business has itself contracted to provide to someone else, even if they invoice you as self-employed.
- **Agency and intermediary staff** — workers supplied through recruitment agencies or umbrella companies, even where you have no direct contract with them.
- **Gig-economy and platform workers** — people who take on work through an app or online matching platform, including any substitute they send in their place.

What decides whether someone is covered isn't the label “employee,” “self-employed” or “freelancer” — it's the substance of the relationship:

- **Outside the rules** — someone who runs their own independent business, has other clients, and deals with you directly as their customer. The Act specifically excludes anyone who is genuinely “a client or customer” of their own profession or business, even though they're self-employed.
- **Inside the rules** — someone supplied to you through a subcontracting chain, agency or platform, even though they may also be self-employed for tax purposes.



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So a self-employed graphic designer or IT consultant you engage directly, who has other clients and bills you themselves, is likely outside scope — much like the window cleaner example below. A “freelancer” placed with you by an agency, or engaged to help you fulfil a contract you owe to someone else, is likely inside it. If you're not sure which applies to someone your business regularly uses, that's exactly the kind of thing worth checking with us.

The three types of check — and which one applies

Which check you run depends on the individual's nationality and immigration status, not on whether they're an employee, contractor or gig worker — the same three methods apply across every category the Act now covers. Doing the right one, correctly, before work starts is what gives you legal protection (a “statutory excuse”) if it later turns out someone didn't have the right to work.

- **1. Manual document check.** Ask for original documents from the Home Office's List A (proves an ongoing right to work — e.g. a British or Irish passport) or List B (time-limited permission, which needs a follow-up check before it expires). Check the originals in person or on a live video call with the documents in view, confirm the person matches the document and the document looks genuine, take a clear dated copy of every relevant page, and keep it on file. This route still applies where a digital check isn't available.
- **2. Home Office online check.** This is now the main route for most non-British/Irish workers, since immigration status is largely digital (physical Biometric Residence Permits stopped being valid proof from the end of 2024). The individual generates a “share code” from their Home Office account, valid for 90 days. You enter the share code and their date of birth into the Home Office's “View a job applicant's right to work details” service, check the photo matches, and save or print the result screen — that online record is your evidence, not a copy of a document.
- **3. Digital identity check via a certified provider (IDSP).** Available to British and Irish citizens with a valid passport, as an alternative to a manual passport check. The individual uses a Home Office–certified Identity Service Provider's app or website to scan their passport and take a live selfie; the provider checks the document is genuine and matches the person, then issues a certified identity report. You must still see the person (in person or on a live video call) and satisfy yourself they're who the report says they are, and keep a copy of the report — using a provider doesn't remove your own responsibility to check.

If someone has an outstanding Home Office application, appeal or administrative review and can't yet produce any of the above, you can apply to the Home Office's Employer Checking Service instead. A “Positive Verification Notice” gives you a statutory excuse for six months, after which you'll need to check again.



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Do you still need to check people you know are British?

Yes — check everyone, every time, with no exceptions. Skipping a check because someone is “obviously” British doesn't just risk missing something: it removes your statutory excuse entirely, so if it later turned out they weren't eligible to work, you'd have no defence at all. Home Office guidance is explicit that checks must be applied **consistently to every worker, including British and Irish citizens**, regardless of nationality or perceived immigration status — only checking people who “look or sound foreign” is treated as race discrimination, not good practice. The safe rule: the same check, for everyone, before work starts, every time.

Do you need to check existing staff, or just new starters?

For anyone you've already checked properly, no — a correctly completed check protects you for as long as they work for you. The one exception isn't new: if someone has **time-limited permission**, you already have to run a follow-up check before it expires if they're staying on.

For anyone you've never checked, there's no legal requirement to check them retrospectively — but checking now only protects you from that point forward, not for time already worked, so closing any gaps is still worth doing.

For the newly covered categories — contractors, subcontractors, agency and gig workers — the expanded duty is expected to apply to engagements starting on or after 1 October 2026, and to any follow-up check that next falls due on or after that date; Home Office guidance on this point is still in draft, so the safe approach is to check anyone in these categories who doesn't already have one on file, rather than wait and see.



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What about genuinely self-employed people — a window cleaner, freelancer or consultant?

Generally, no check needed — for the same reason in each case. The Act itself excludes anyone genuinely **“a client or customer” of their own profession or business**, and the draft Code of Practice for the expanded regime echoes this: it carves out anyone “operating in business on their own account ... who contract directly with clients or customers for the provision of services.” That covers a self-employed window cleaner who invoices you directly and has other clients, just as it covers a freelance designer or consultant you engage directly, bills you themselves, and works for other businesses too. The test isn't the “self-employed” label; it's whether you engaged them directly or through an intermediary. If instead they came to you via an agency, a booking platform, or as part of fulfilling a contract you owe someone else, that arrangement *would* be caught, even though the individual is still self-employed. As the Code of Practice detail is still in draft, it's worth a quick re-check nearer October once the final version is published.

Certified providers for digital checks

If you'd rather use a certified provider than run manual or Home Office checks yourself, the government keeps a live public register of certified Identity Service Providers — worth checking directly, since certifications carry expiry dates and the list changes. As at August 2026, providers offering right-to-work identity verification include:

- **Yoti (with the Post Office)** — one of the first certified providers, offering app-based verification plus in-branch identity checks at Post Office counters.
- **TrustID** — a UK-based provider offering both remote digital checks and in-person verification, aimed at HR and recruitment teams.
- **Digidentity** — remote digital identity verification built specifically around right-to-work and right-to-rent checks.
- **OneID** — digital identity verification that draws on bank-held identity data rather than a document scan.
- **Experian (Identity Connect)** — identity verification from the credit-reference and data business, often used alongside other pre-employment checks.
- **Amicus** — an identity and background-screening platform widely used in professional and regulated-sector recruitment.

This isn't a recommendation of any one provider, and it isn't the full list — it's a starting point. Before signing up with any provider, check its current certification on the government's register at digital-identity-services-register.service.gov.uk. We're happy to talk through which approach would suit your business.

Why this matters: liability and penalties

The Act also hardens the consequences of getting this wrong. A few points stand out:

- **Liability can sit with you even without a direct contract.** If someone without the right to work is found doing work that benefits your business — even via an agency or subcontractor — you may still be exposed. “We didn’t know” or “the agency was supposed to check” is unlikely to be treated as a sufficient defence on its own.
- **Civil penalties have increased sharply.** Reported figures for illegal working penalties now run up to £45,000 per worker for a first breach and up to £60,000 per worker for repeat breaches, with the Home Office expected to publish a revised code of practice confirming the final figures nearer the commencement date.
- **Criminal liability remains in play for deliberate breaches.** Knowingly employing someone without the right to work can still lead to prosecution, with a maximum sentence of up to five years’ imprisonment and an unlimited fine.
- **Wider consequences.** Businesses found non-compliant can also face reputational damage, difficulties with sponsor licences (if you sponsor visa holders), and, in some sectors, licensing consequences.

What you should do before 1 October 2026

The Home Office is expected to issue further guidance ahead of commencement, but there’s no need to wait to start preparing. We’d recommend:

- **1. Map your workforce.** List everyone who does work for your business — employees, contractors, subcontractors, agency workers, freelancers and gig workers — and identify who currently has a right-to-work check on file and who doesn’t.
- **2. Extend your checking process.** Update your onboarding process so that a right-to-work check happens before work starts, for every category above — not just new employees.
- **3. Use the right checking method for each person.** Match the check to the individual — manual document check, Home Office online check, or a certified digital identity provider (see the breakdown above) — rather than relying on informal or visual checks alone.
- **4. Revisit contracts with agencies and suppliers.** Where you engage workers through a third party, make clear in the contract who is responsible for checks, who holds the evidence, and what audit or indemnity rights you have if something goes wrong.
- **5. Keep evidence, and keep it organised.** Retain copies of checks in a way you could produce quickly if asked — don’t rely on checks having “happened” somewhere in the business without a record.
- **6. Diary time-limited permissions.** For anyone with a visa or permission that expires, build in a reminder well ahead of the expiry date so a follow-up check happens automatically.
- **7. Brief the people who hire.** Make sure managers, not just HR, understand that the rules now reach beyond direct employees — particularly if departments engage contractors or freelancers without going through HR.

The wider picture (briefly)

The right-to-work changes are the part of the Act most likely to require action from you directly, but a few other changes are worth knowing about for context:

- The Act replaced the previous Rwanda removals scheme and created a new Border Security Command to coordinate action against people-smuggling gangs.
- It introduced new criminal offences around supplying equipment for, or facilitating, organised immigration crime.
- It gave the Immigration Advice Authority stronger powers to regulate immigration advisers, including higher fines for non-compliant advisers.
- Various provisions are being brought into force in stages during 2026 — the 1 October 2026 date above is specific to the right-to-work expansion.

Next steps

If you engage anyone outside a standard payroll employment relationship — contractors, freelancers, agency staff, or gig workers — it's worth reviewing your position well before October. We're happy to run through your current arrangements with you, help you map where the gaps are, and suggest practical fixes ahead of the deadline. Just get in touch and we can arrange a short call.

A note on this briefing

*This document is a plain-English summary for general information and does not constitute legal advice. It reflects our understanding of the law as at **27 August 2026**, and the Home Office is expected to publish further guidance (including a revised code of practice on civil penalties) before the right-to-work changes take effect on 1 October 2026. Figures and requirements may be updated once that guidance is published. Please speak to us before relying on this note for a specific decision.*

