

Right to Work Checks: Changes from 6 April 2022

From 6 April 2022, right to work checks on all migrant or settled prospective employees must be online and checks on British or Irish nationals will be manual (free) or digital (charged for).

04 April 2022

Employers must carry out Right to Work checks on all prospective employees before they start work. Until 6 April 2022, employers could either conduct manual checks by verifying employees' original and physical documents or could carry out online checks when available.

From 6 April 2022, right to work checks on all migrant or settled prospective employees must be online and checks on British or Irish nationals will be manual (free) or digital (charged for).

Online checks

- From 6 April 2022 employers must carry out online checks for holders of Biometric Residence Cards (BRC), Biometric Residence Permits (BRP) and Frontier Worker Permits (FWP) as well as holders of settled or pre-settled status under the EU Settlement Scheme.
- Employers must verify the right to work by using a shared code provided by their prospective employee and checking [the applicant right to work online portal](#) before they start work.
- Physical cards are no longer accepted.
- Retrospective checks will not be required on biometric card holders who, before 6 April 2022, used their physical card to demonstrate their right to work.

Manual checks

- The manual checks on original documents (i.e. passports) will be confined to British and Irish nationals due to the non-availability of online checks for them.

Digital checks

- Employers will be able to use certified Identification Document Validation Technology (IDVT) service providers to carry out digital identity checks on their behalf for British and Irish citizens who hold a valid passport. Unlike the online checks, this service will not be free of charge.

In addition, the Covid-19 temporary adjusted right to work checks have now been extended until 30 September 2022.

Employers will need to adapt and review their internal procedures to ensure full compliance with the new rules.

A failure to perform right to work checks correctly could result in sanctions, including:

- A civil penalty of up to £20,000 per illegal worker;
- In serious cases, a criminal conviction carrying a prison sentence of up to 5 years and an unlimited fine;
- Closure of the business and a compliance order issued by the court;
- Disqualification as a director;
- Not being able to sponsor migrants;
- Appear in the publication of non-compliant employers which may damage reputation;
- Seizure of earnings made as a result of illegal working; and review and possible revocation of a licence in the alcohol and late-night refreshment sectors and the private hire vehicle and taxi sectors.

Therefore, it is crucial that employers comply with the correct checks in line with the upcoming changes from 6 April 2022.

Contact

Bénédicte Viort de La Batie
Associate

Benedicte.ViortDeLaBatie@brownejacobson.com

+44 (0)330 045 2952

Related expertise