

The impact of the Covid-19 distancing measures on right to work checks

In unprecedented times of self-isolation and social distancing, the Home Office has now published new UK immigration guidance on right to work checks to adjust the rules on manual checking of original documentation and adapt to the new situation.

06 April 2020

Please note: the information contained in our legal updates are correct as of the original date of publication

In unprecedented times of self-isolation and social distancing, the Home Office has now published new UK immigration guidance on right to work checks to adjust the rules on manual checking of original documentation and adapt to the new situation.

For employees who are due to start work during the pandemic, their employers may be unable to comply with their obligation to check the required original documentation in the usual way. It is important to understand that employers' obligations remain substantially the same and they still need to be satisfied of the validity of the prescribed documentation.

In unprecedented times of self-isolation and social distancing, the Home Office has now published new UK immigration guidance on right to work checks to adjust the rules on manual checking of original documentation and adapt to the new situation.

For employees who are due to start work during the pandemic, their employers may be unable to comply with their obligation to check the required original documentation in the usual way. It is important to understand that employers' obligations remain substantially the same and they still need to be satisfied of the validity of the prescribed documentation.

However, from 30 March 2020, the Home Office has announced a set of temporary changes to ease the burden on employers and employees to comply with the right to work checks' obligations.

Checks may now be conducted via video conferencing facilities

They will replace the face to face meeting where original documents are provided to and checked by the employer.

Rather than originals, scanned documents or photographs can be sent by employees and subsequently accepted by employers.

Employers should check and be satisfied that the original documentation shown during the video call by the employee matches the original copy received by electronic means during or before the virtual meeting.

In addition, the [online right to work service](#) when permissible to use it, remains a useful tool for employers while doing a video call when employees authorise their employer to view their details and share their code with their prospective employer.

As before, a written mention should be kept on the document recording both the date and the way the check was performed. The exact wording is now confirmed as 'adjusted check undertaken on [insert date] due to COVID-19 by [insert full name]'.

Employers should still use the employer checking service if the employee is not able to provide any of the prescribed document.

Employees already working in the UK and whose visa may expire during the Covid 19 crisis may face important delays to have their visa renewed or switched. This is mainly due to most of the immigration services being closed or not being fully operational at the usual speed.

UKVI has now issued guidance that all foreign nationals whose permission to stay in the UK expired from 24th January 2020 may access a visa extension until 31st May 2020 therefore they will not be disadvantaged due to the COVID-19 crisis.

If the job applicant or the current employee cannot show the prescribed documents, Employers must contact the [Home Office Employer Checking Service](#), with their employee's consent, in order to obtain a 'Positive Verification Notice'. This is a valid statutory excuse for 6 months from the date shown in the notice.

After the Crisis

Further guidance will be published in advance when these measures will end and the normal process should resume after that date as per right to work checks: an employer's guide. Employers will be asked to carry out retrospective checks on existing employees when the crisis will finally end.

Contact

Bénédicte Viort de La Batie

Associate

Benedicte.ViortDeLaBatie@brownejacobson.com

+44 (0)330 045 2952

Related expertise

Employment

Immigration