

LIRA'S IMMIGRATION CORNER

Right to Work Checks New Changes from the 1st of October 2022

EMPLOYERS ARE required to carry out checks that their employees have the right to work in the UK. If they do not and they are found to have employed someone who cannot legally work here, they may be subject to penalty – this can be as much as £20k per employee. This requirement is not new, having been in place since the introduction of the Immigration, Asylum and Nationality Act 2006 on the 29th of February 2008.

Some 14 years after the 2008 Act, the issue of immigration and working in the UK has continued to develop taking into account factors that in 2008 may have been unthinkable and two such factors were Brexit and Covid. The following deals with changes in the processes required from employers and therefore what employers will need from you as an employee to show that you do have the right to work in the UK.

Change from the 1st of October 2022

In March 2020 because of the pandemic the Home Office allowed employers to conduct right to work checks remotely. This meant that rather than having to meet job applicants and employees in person to check their immigration status, they were able to do so remotely, for example via a video call. This flexible way of conducting checks ended on **30 September 2022**.

From **1 October**, employers will need to conduct a check in one of the following ways:

- via an Identification Document Validation Technology (“IDVT”) identity check.
- via the Home Office’s online checking service; or
- an in-person manual check using original documents.

Applicable process

Which process your employer will implement will largely de-



pend on the type of visa or nationality you have; British and Irish citizens are not exempt.

British and Irish citizens – check done IDVT

Identity document validation technologies (IDVT) are forms of technology that can establish the authenticity of documents presented for identity verification purposes. To verify your identity for right to work checks through IDVT you are required to present: valid British passports, valid Irish passports or valid Irish passport cards. Scanned copies are provided by your employer to an authorised company (see Home Office website for list) that can carry out IDVT checks and they will in-

turn carry out the relevant checks. There is a small fee payable of about £7.50 per candidate payable by your employer. (BRP) or a Frontier Worker Permit (FWP).

Once positive confirmation is received your employer will no longer need to carry out any further checks on your right to work in the future.

Online check

Since 6 April 2022, employers have had to carry out an online check where the individual holds a Biometric Residence Card (BRC), a Biometric Residence Permit



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(9 digits) to your employer. They will then carry out their online check. This service is free.

Most people (not British or Irish) have this process carried out.

If you have an existing extension application with the Home Office, the online check should still confirm that you have the right to work provided your original visa allowed you to work and you applied before your visa expired.

Manual check

If an online check has been carried out there will be no need for manual check. Manual checks can also be carried out by your employer if you are not a British or Irish citizen or where your immigration status is not endorsed on a BRP, BRC or FWP. An example is where you where you have just obtained naturalisation certificate (having successfully applied for British Citizenship) but you have not received your British passport.

Your employer will need to see your original document and take a copy of this. It is good practice for employers to note on your employment record that the original document was provided and seen.

In practice most employers are nervous about simply carrying out manual checks so you may find that in the above case, your employer will still ask you to provide your original British passport when it is received.

EU citizens

Following Brexit, EU citizens are subject to the same checks required for other foreign nationals. ■

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