

Leigh Christou

Right to Work Checks from 1 October 2022

All UK employers are legally bound to prevent illegal working by carrying out 'Right to Work Checks', even on UK nationals. Failure to complete these checks properly, could mean a significant civil penalty for the business of up to £20,000 per worker, and even criminal sanctions!

Right to work checks need to be completed before the employment begins. Once the check has been completed and the right to work has been established, you will have an ongoing 'statutory excuse' should you be accused of employing someone illegally.

For Irish citizens, the checks are the same as for UK nationals, although their documents will look different. There are currently three ways in which a check can be conducted. This will change on 30th September 2022, when measures brought in temporarily for COVID-19 will cease (documents checked in this way however will not need to be re-checked).

From 1 October 2022, you will be able to either check documents manually, or use a third party Identity Services Provider (IDSP) to complete a digital check. These digital checks have been in place since April 2022 and were brought in following the success of the temporary COVID-19 digital checks, which allowed employers to conduct right to work checks entirely remotely, without the need to have formal documents in their presence.

Manual checks have been in place for some time, and follow three steps: Obtain (the original documents), check (are they genuine and is the prospective employee the rightful holder) and copy (a copy of the documents is taken for future reference). Copies need to be kept throughout the employment, and for two years after.

Following the outbreak of COVID-19 Digital checks were created, allowing the employer to check documents virtually, via a video call and electronically copied original documents.

This is being permanently replaced by Identity Document Validation Technology (IDVT). These checks are completed by IDSP's, who will provide confirmation of right to work status. A list of certified IDSP providers is available on gov.uk. Note: it is not necessary to use a certified provider, however if they do not you must be careful to check the provider you select completes the required checks.

The use of IDSPs and IDVT is a step forward into the increasing digitalisation of employment. But be careful not to discriminate against those who, for whatever reason, do not have a passport or Irish identity card that can be used for these checks. In these circumstances, the traditional manual check method remains the best option.

Should you have any queries, please do not hesitate to contact us

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