



DIGITAL 'RIGHT TO WORK' (RTW) CHECKS - EMPLOYING NON UK STAFF POST BREXIT !

BACKGROUND

Following BREXIT on 1st January 2021, new immigration rules, and therefore rules on the employment of **non UK** employees, came into force affecting citizens from **the EU, Iceland, Liechtenstein, Norway and Switzerland (not including Ireland though) !**

Those existing employees, and potential new employees, who are citizens of the EU and were already in the UK **before 31st December 2020**, **DO NOT** need a visa for employment purposes, but must either

- have obtained a UK passport or
- have applied for and/or received '**settled**' or '**pre-settled**' status as part of the **EU Settlement Scheme** by 30th June 2021.

For any other potential employees, (whether from the EU/EEA or outside the EU), who have come to the UK for work purposes **after 1st January 2021** - **these individuals MUST have the relevant UK visa !**

As a part of these changes, Employers are now **legally required** to carry out a '**Right to Work**' (RTW) check on any **NEW** employee as follows

- **For a UK citizen (or an Irish citizen):** there are no further requirements (ahead of employing them)
- **For a Non UK/Non EU/EEA citizen:** the usual visa and checks of such visas are required (ahead of employing them)
- **For an EU/EEA citizen:** they must have a '**settled**' (or '**pre settled**') status or the usual visa as per the above (ahead of employing them)

WHAT EMPLOYERS NEED TO DO NOW !

Post **1st July 2021**, Employers were no longer able to accept passports and national identity cards from either existing employees, or potential employees, from the EU/EEA etc. to prove their right to work in the UK.

Instead Employers have been required to carry out the '**Right to Work**' (RTW) checks, either online or manually. Digital '**Right to work**' (RTW) checks were introduced on a temporary basis to alleviate the practical difficulties associated with completing physical checks while working remotely, and although the system was due to expire in June 2021, it was extended beyond that date.

The Government has now confirmed that a permanent system of digital '**Right to Work**' (RTW) checks will be put in place from 6 April 2022 onwards. The Home Office will enable Employers, landlords and letting agents to use certified **Identification Document Validation Technology (IDVT)** service providers to carry out digital identity checks on their behalf.

Using IDVT allows individuals to upload images of their personal documents e.g. passports, ID cards etc , instead of presenting physical documents to a potential Employer.



The **Recruitment and Employment Confederation (REC)** has been part of a campaign for the change to be made permanent, as the argument is that digital RTW checks have assisted with simplifying the hiring process for Employers since the changes post 1st January 2021.

The main '**downside**' to the new digital RTW checking process is that the costs of using the system is expected to have to be met by Employers e.g. meaning additional recruitment related costs anything from £2.00 to £70.00 per check.

To understand more of the details behind the whole '**Right To Work**' (RTW) checks and the additional requirements on employing Non UK employees post BREXIT see our previous Blog

- <https://www.sakurabusiness.co.uk/are-you-employing-staff-in-2021-ensure-that-you-understand-the-rules-post-brexit/>

Contact us at Sakura if you have any queries around the risks that may be applicable to your business and/or you need advice on how to manage it more appropriately. Contact us on 0207 952 1230 or damian@sakurabusiness.co.uk