

# Changes to right-to-work checks: Are you compliant?



If you're an employer, you need to know that from October 2022, how you carry out right-to-work checks has changed. During the COVID-19 pandemic, the Government made temporary changes allowing employers to check identification documents remotely using scanned documents or video calls, but these changes no longer apply.

## What do I need to do now?

Employers must now ensure they are carrying out one of the following checks before an employee commences employment. A period of induction is too late and will not give an organisation an excuse against negligently employing an illegal worker. For British and Irish citizens:

1. a manual right to work check, i.e. obtaining, checking and verifying original documentation in person at a face to face meeting; or
2. a right to work check using identification document validation technology via the services of an identity service provider (ISP).

For any prospective employee who holds a biometric residence card (BRC), biometric residence permit (BRP), has EU settled or pre-settled status, or a frontier worker permit (FWP), organisations must check their right to work online, using the [Home Office online right to work checking service](#). Physical checks of documents are no longer permitted for employees with these types of permits and immigration permission. For any other non-British or Irish citizens without a BRC, BRP, EU Settled or pre-settled status or an FWP, employers are permitted to undertake a manual right to work check.

## How should I be carrying out these checks?

Manual right-to-work checks are the most straightforward option when employing British or Irish citizens. You need to ensure that any documents produced by employees are on the [Government's lists of acceptable documents](#). You should also ensure that any copies of these documents taken are clearly marked as having been reviewed on a specific date and retained for future reference for the duration of the employee's employment, and two years thereafter.

For any non-British or Irish nationals who hold BRPs, BRCs and EEA nationals with settled or pre-settled status, employers must use the Home Office online Right to Work Checking Service. Employers should ask the potential employee to provide their share code and date of birth in order for a check to be carried out this way. Employers will instead be able to undertake manual checks for any non-British or Irish citizen without one of the immigration documents listed above.

Whichever method you choose going forward, it is vital that your organisation's recruitment processes are up to date and reflects these changes.

## Here to help

For support and advice on any of the issues covered in this article, contact Tony McPhillips on 0191 211 7908 or [tony.mcphillips@muckle-llp.com](mailto:tony.mcphillips@muckle-llp.com)