



New right to work checks

By **Vanessa Ganguin** - 2 July 2021

Changes to right to work checks

From 1 July onwards, important changes were made to the rights of European citizens in the UK and how to carry out right to work checks for new recruits. It is important to get this right as employing a worker illegally can incur penalties of up to £20,000. Correct right to work check procedures give employers a statutory excuse to protect them if it is discovered that employees have been working illegally. So, what do you need to know?

What has changed?

Irish citizens can still rely on their passport or passport card to prove their right to work. However, from 1 July all other EU, EEA and Swiss citizens will no longer be able to use their passport or national identity card to prove their right to work. Instead, they need to prove their right to work online, like other visa holders with biometric residence permits.

Those who need to have their status checked online can find a share code by [accessing their online account](#). Employers can then [check their right to work online](#) using a new employee's share code as well as their date of birth.

Which new documents can be used for right to work checks?

Employers must still check the original documents of UK and Irish citizens as well as any others without a digital immigration status. There are some new categories of documents that employers can rely on, such as a UK certificate confirming an application to the EU Settlement Scheme made before 30 June 2021. As before, some documents give employers a continuous statutory excuse to protect from penalties, whereas others require a follow up check.

Remote right to work checks

During the Coronavirus pandemic, employers can carry out remote right to work checks (further information is [here](#)).

Remote checks can continue until 1 September 2021.

Checks done before 1 July 2021

Employers are not required to do any retrospective checks on employees where the check was conducted before 1 July 2021. If initial checks were carried out correctly under previous rules, employers will have a statutory excuse until the end of the staff member's employment (or, if sooner, the expiry of their visa).

What if employees missed the 30 June EU Settlement Scheme deadline?

There are transitional measures in place, until 31 December 2021, if employers find that an EEA national employed before 1 July 2021 had not made an application. In that case they should advise the employee to apply within 28 days. There are further steps the employer should take including contacting the [Employer Checking Service](#) ("ECS") once the employee provides a Certificate of Application. So, employers should take advice if they find themselves in this situation.

This summary is for information only and is not legal advice. It reflects the position as of 1 July 2021. For any questions, please get in touch with immigration partner [Vanessa Ganguin](#).