

GMS Flash Alert



Immigration Edition

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United Kingdom - Online Right-to-Work Checking Service

The U.K. Immigration Minister has announced changes of regulations to allow new online right-to-work compliance checks.¹ These will apply to holders of a biometric residence permits and new European Union (EU) settlement scheme documents, which are for EU nationals living in the U.K. after Brexit.

Physical right-to-work checks will still be required for most employees as the online system will not work for British citizens.

WHY THIS MATTERS

The government expects employers to verify that their employees have a right to work in the U.K. and undertake the work they are employed to do. The penalties for employing an individual without the right to work in the U.K. may include employers facing a fine of up to £20,000 per unlawful worker, reputational damage or even criminal prosecution. Conducting a right-to-work check, under the government's guidance, will provide an employer protection against liability for a civil penalty. The government hopes the online right to work checking service will make it easier for employers to demonstrate that they have conducted the necessary right-to-work checks on migrants.

Highlights of Proposals

The government has put forward draft regulations which will come into force on 28 January 2019.² The changes include:

- Allowing a new online right-to-work check to be used instead of checks on documents for some employees;
- Requiring copies of all checks to be “clear”;
- Allowing checking of British birth certificates that do not include the names of parents to be used for right-to-work checks (in combination with evidence of a national insurance number).

An online right-to-work check can only be done on those who hold a biometric residence permit or a new EU settlement scheme document, which are for EU nationals living in the U.K. after Brexit. The Immigration Minister has explained:

The system works on the basis of the individual first viewing their own Home Office right to work record. [Individuals] may then share this information with an employer if they wish, by providing their employer with a ‘share code’, which can be used to access the record. This authorisation represents an important safeguard and means employers will only view an individual’s information having received their consent and the share code allowing their access.³

The regulations make clear that when using an online right-to-work check, the employer will still need to:

- check the photograph is of the employee;
- retain a clear copy of the online right-to-work check for two years after employment ends;
- obtain term and vacation dates for employees who can work a limited number of hours during term time.

Furthermore, as the share code is needed before doing the check, we expect that the manual checks of biometric residence permits will be easier than the new system in many cases.

KPMG NOTE

Employers should continue to do right-to-work checks on prospective employees before employment starts, but will need to update their processes to consider the new right-to-work check options. This is one of many changes that are expected as a result of Brexit. Employers must remember that most checks will continue unchanged as checks on British citizens will still require presentation of physical documents.

KPMG offers technology called the Right to Work App,⁴ which helps make compliance easier in this area. Please contact the U.K. KPMG immigration team for more information or if you have any questions.

FOOTNOTES:

- 1 For the full announcement, [click here](#).
- 2 See The Immigration (Restrictions on Employment) (Code of Practice and Miscellaneous Amendments) Order 2018, [click here](#).
- 3 For the full statement, [click here](#).
- 4 For further information, [click here](#).

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Contact us

For additional information or assistance, please contact your local GMS or People Services professional* or one of the following professionals with the KPMG International member firm in the United Kingdom.

The KPMG Legal Services – Immigration Team has a wealth of experience in transactional, advisory, and compliance assurance services. We will be able to advise your business in relation to practical considerations in light of the above changes, as well as what this means for your long-term recruitment and compliance strategies.



Punam Birly

Tel. + 44 (0) 20 7694 4950
Punam.Birly@kpmg.co.uk

Sarah Ingles

Tel. + 44 (0) 20 7694 8821
Sarah.Ingles@kpmg.co.uk

Denise Osterwald

Tel. +44 (0) 20 7694 3481
Denise.Osterwald@kpmg.co.uk

* Please note the KPMG International member firm in the United States does not provide immigration or labour law services. However, KPMG Law LLP in Canada can assist clients with U.S. immigration matters.

The information contained in this newsletter was submitted by the KPMG International member firm in the United Kingdom.

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