



RIGHT TO WORK IN THE UK CHECKS AND EU NATIONALS – WHAT IS CHANGING?

Employers may have concerns about right to work checks for EU nationals post Brexit. With the UK's withdrawal from the EU due to happen on 29 March 2019, here's what employers need to know.

WHAT IS A RIGHT TO WORK CHECK?

This is a check of an individual's immigration status and is required prior to the commencement of their employment. An employer must take reasonable steps to satisfy themselves that an individual is not disqualified from carrying out the work in question. In the event it is found that an individual did/does not have the right to do the work in question, provided the employer conducted the right to work check correctly, the employer will have a statutory excuse against a civil penalty for that illegal worker.

WHAT DO EMPLOYERS NEED TO DO FOLLOWING BREXIT?

The Government has determined that it will not ask employers to distinguish between EU citizens resident in the UK before or after the UK's exit from the EU until the end of December 2020. This is to ensure that EU citizens and their family members who are eligible under the EU Settlement Scheme have a reasonable opportunity to apply for and be granted status.

As such, and until 2021, EU citizens will continue to be able to evidence their right to work in the UK by using their passport or national identity card, and non-EU family members will be able to use their biometric residence document.

WHAT HAPPENS NEXT?

Once the new single immigration system is introduced in 2021, employers will need to check EU citizens' status using the Home Office's Digital Status Checker. This requirement will only apply to new recruits that are employed from the date of introduction, not retrospectively.

Key issues

- All employers have a duty to prevent illegal working.
- Employers may be liable for a civil penalty if they employ someone who does not have the right to undertake the work in question where that person commenced employment on or after 29 February 2008.
- Post-Brexit, and until 2021, EU citizens will continue to be able to evidence their rights to work in the UK by using their passport or national identity card, and non-EU family members can use their biometric residence document.
- From 2021, employers will need to check EU citizens' status using the Home Office's Digital Status Checker.

CONTACTS



Stephanie Dare
Chartered Legal
Executive, Immigration

T +44 207006 1965
E stephanie.dare
@cliffordchance.com



Chris Goodwill
Partner

T +44 207006 8304
E chris.goodwill
@cliffordchance.com

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

www.cliffordchance.com

Clifford Chance, 10 Upper Bank Street,
London, E14 5JJ

© Clifford Chance 2017

Clifford Chance LLP is a limited liability partnership registered in England and Wales under number OC323571

Registered office: 10 Upper Bank Street,
London, E14 5JJ

We use the word 'partner' to refer to a member of Clifford Chance LLP, or an employee or consultant with equivalent standing and qualifications

If you do not wish to receive further information from Clifford Chance about events or legal developments which we believe may be of interest to you, please either send an email to nomorecontact@cliffordchance.com or by post at Clifford Chance LLP, 10 Upper Bank Street, Canary Wharf, London E14 5JJ

Abu Dhabi • Amsterdam • Bangkok •
Barcelona • Beijing • Brussels • Bucharest •
Casablanca • Doha • Dubai • Düsseldorf •
Frankfurt • Hong Kong • Istanbul • Jakarta* •
London • Luxembourg • Madrid • Milan •
Moscow • Munich • New York • Paris • Perth •
Prague • Rome • São Paulo • Seoul •
Shanghai • Singapore • Sydney • Tokyo •
Warsaw • Washington, D.C.

*Linda Widyati & Partners in association with Clifford Chance.

Clifford Chance has a co-operation agreement with Abuhimed Alsheikh Alhagbani Law Firm in Riyadh.

Clifford Chance has a best friends relationship with Redcliffe Partners in Ukraine.