MOMENTOUS CHANGES TO UK EMPLOYMENT LAW NEXT MONTH

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Digital Right to Work overhaul could land non-compliant employers in jail

On October 1st, crucial changes to the UK's Right to Work (https://www.gov.uk/government/publications/right-to-work-checks-employers-guide) legislation will become law. Xydus (http://www.xydus.com/), one of only a handful of government-certified digital identity providers (IDSPs), urges British businesses to act now to ensure compliance and avoid potentially substantial repercussions. The legislation promotes the move to digital Right To Work checks for UK and foreign workers. Failure to prepare and implement the required changes could see employers face fines, lose the right to hire foreign workers and for repeat offenders even face the prospect of jail time.

The journey to digital RTW

Prior to the pandemic, the majority of Right to Work checks were conducted in person as required under Home Office rules. Prospective employees showed documents providing evidence of their right to work to employers who stored a copy.

During the pandemic, temporary adjustments were made to these requirements in order for remote work to be facilitated, and help businesses continue to hire in lockdown. For the first time ever, in-person checks were permitted to be carried out over video calls, and job applicants were able to send a photo of their documents to employers via email.

Whilst temporary rules were successful, it increased the potential for bad actors to take advantage of circumstances and unfamiliar procedures. Therefore, to mitigate this risk but retain the benefits of a digital solution the government has enacted a number of changes.

From October 1st:

- All UK businesses must use government certified Identity Service Providers (IDSPs) to complete digital Right to Work checks
- Digital checks require the submission of images of personal documents using certified ID validation technology to verify the employees right to work. Any other method is non-compliant
- Failing to comply can result in a civil penalty of up to £20,000 per non-compliant check, losing the ability to sponsor work visa applications for foreign nationals and even criminal convictions in serious cases
- Records need to be kept for up to two years after an employee exits the business

Russell King, CEO of Xydus, whose identity verification technology has been leveraged by the NHS, PwC, and Hitachi, commented: "This legislation affects all UK businesses. Digital Right to Work checks mark a significant change in the way employers must perform these checks and complete employee 'onboarding' procedures. Despite the short time until these laws come into force, many businesses we hear from are rather unprepared for the changes. Given the significance of daily headlines this is not unsurprising. We therefore strongly advise any business that feels less than well informed about these

imminent changes in the law to engage with a certified IDSP as soon as possible. The list of government certified providers and their contact details can be found on the Gov.uk (http://gov.uk/) website by searching for “Digital identity certification”.

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